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OF

THOMAS LORD COCHRANE, K. B.

CONTAINING

THE HISTORY OF THE NOAX,

THE TRIAL,

THE PROCEEDINGS IN THE HOUSE OF COMMONS, AND THE
MEETINGS OF THE ELECTORS OF WESTMINSTER.

TO WHICH IS PREFIXED

A BIOGRAPHICAL SKETCH OF HIS LORDSHIP;

WITH

AN APPENDIX,

CONTAINING

A REVIEW OF THE EVIDENCE ON THE TRIAL.

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BIOGRAPHICAL SKETCH

OF

THOMAS LORD COCHRANE.

His lordship, the eldest son of the earl of Dundonald, was born on the 24th of December, 1774. Having been destined for the navy, he was placed, at an early period of life, under the care of his uncle, the present Admiral Sir Alexander Cochrane.

Having served in the West Indies, the bay of Biscay, and the Home Station, he passed for a Lieutenant. He was afterwards promoted to the command of the *Speedy*, of 14 guns, with the rank of Master and Commander, which led, in its turn, to the rank he now holds.

In 1801, when stationed off Barcelona, he engaged, boarded, and captured the Spanish sloop of war, *El Gamo*, a vessel of double his strength, and which lost, in killed and wounded, more men than the whole complement of the *Speedy*. In the course of the same year, and with the same little brig, he took no fewer than 33 vessels from the enemy, mounting in all 128 guns, and made 530 prisoners. He likewise, with the assistance of another brig, destroyed a 26 gun ship and 3 gun boats, together with a heavy battery and a large convoy which had taken refuge behind it: and soon afterwards he effected a landing on the coast, and blew up the tower of Alcarera.

His signal services having procured for him the rank of Post Captain, his pendant was flying at the commencement of the present war on board the *Pallas*, of 32 guns. In this frigate, his lordship attacked three French national ships of 18, 22, and 24 guns, which he drove on shore and wreck-

ed, although at the time 90 of his men were absent on another expedition.

In May, 1806, he landed on the French coast. Having led his gallant crew in person, he first destroyed all the signal posts which announced the approach of our cruisers; while at the same time part of his men routed a small body of militia who defended a battery, spiked its guns, and threw the shells into the sea. A few days after this, the *Pallas* attacked a very heavy French frigate, although supported by three sloops of war, and rendered her almost a wreck.

This year was also the commencement of Lord Cochrane's parliamentary career. Honiton, a rotten borough, had been recently enfranchised, and had been represented by Mr. Cavendish Bradshaw, who having accepted an office in the exchequer of Ireland, a new election was ordered. Mr. Cobbett, the author of the *Political Register*, at first declared his intention of opposing the old candidate, with this proviso, that no other person of *independent principles* came forward. But it is probable there was an understanding between his lordship and Mr. Cobbett, as the only candidates on the day of election were Lord C. and Mr. Bradshaw.

His lordship, on the Hustings, delivered an animated though short address to the electors; in the course of which, he emphatically said, "To preserve the liberties of my country unimpaired, shall be the business and pride of my life; and, as a pledge that I will make these efforts purely for the good of my country, I give you my word of honour, that I shall never accept of any sinecure or pension, or any grant of the public money; and that I never will ask or receive any such for any person whatever that may be in any way dependent on me." And he concluded by stating, that his leading motive for wishing a seat in parliament was, that he might be able to point out *some enormous abuses*, which, from his own observation, he knew to exist. His lordship's efforts were, however, on this occasion, unsuccessful; the result of the votes being, for the ministerial candidate 259; for Lord C. 124.

The parliament being dissolved on the demise of Mr. Pitt, his lordship again determined to offer himself for the borough of Honiton. Before the election he set out from Plymouth in a truly seaman-like style. He himself, accompa-

nied by a couple of lieutenants and a midshipman, all in full dress, as if engaged in actual service, proceeded in one carriage, and were followed by his boat's crew in another, new rigged, and prepared for action. On the box sat the *helmsman*, who wished to regulate the *steerage*, which he lamented to see confided to two lubberly postilions with favours in their hats, and boots on their legs; while the boatswain, perched on the roof of the carriage, with his whistle in his mouth, kept the whole in order, and enabled all to cheer in due time, every blast being accompanied by a long and loud huzza. On their appearance at Honiton, they were received with loud plaudits by a great body of the electors, although they had, notwithstanding, some reason to consider themselves on an enemy's coast, as they were obliged to expend almost *every spare shot in the locker* before the conclusion of the contest. It was, however, favourable; and Captain Lord Cochrane now beheld himself a legislator. The parliament was dissolved a year afterwards; and his lordship set sail for Westminster, where officers of the navy had been, during the last century, returned at little or no expense to themselves.

When he first made his bow to the electors, it is a singular fact, that his lordship was scarcely known to them even by name; not above five or six housekeepers of any note rallied round his standard; but his printed address to the citizens, which displayed much penetration and judgment, soon brought him into notice. Its leading tone, while it frankly developed his lordship's principles, was happily in unison with the popular feeling; "Men," said he, "actuated by the dictates of conscience, who scorn to be ranked among the *great paupers* of the nation, and by sinecures and unmerited pensions to drain the resources of their country, may do much good, even though their abilities are small." The other candidates on this occasion were, Sir F. Burdett, Mr. Elliot, Mr. Sheridan, and Mr. Paul.

His speeches from the Hustings gradually led the electors more and more into his principles, and more particularly to a reform in the flagrant abuses of the naval department of the state; and such was his success, that for several days he was at the head of the poll. In short, his lordship appears to have been as much at home, during the whole of this arduous contest on the Hustings, as in the thick of an engage-

ment. The result was that Lord C. was declared a member for the second city in the kingdom; the numbers being,

For Sir F. Burdett,	5134.
Lord Cochrane,	3708.
Mr. Sheridan,	2615.
Mr. Elliot,	2137.
Mr. Paul,	269.

On this his second entrance into parliament, his lordship soon began to realize his promise to his constituents. Accordingly, on June 7, 1807, he made a motion relative to the state of the navy, for the purpose of adducing certain charges against an admiral who had lately commanded the Channel fleet; but it fell to the ground, as it was not only opposed by the ministry, but by some of the most distinguished officers in the service. Shortly thereafter, however, he moved for a committee "to inquire into, and to report to the house, a list of all the members and their relations holding sinecures, pensions, &c.;" which, after some modification, was agreed to by ministers, and a return was in consequence made to parliament.

Whether it was that these harassing inquiries were disagreeable to ministers, or whether they considered his lordship's exertions against the common enemy as more beneficial to his country, we cannot decide; but soon after his last motion, Lord C. was appointed to the command of the *Imperieuse*, of 40 guns. After cruising for some time, he placed himself under the command of Lord Collingwood, then employed in blockading the port of Cadiz, and checking the exertions of the Spaniards, before that nation evinced a wish to throw off the yoke of France. The Spaniards, however, being at length roused from their lethargy, the most cordial assistance was afforded to their cause.

Though it is not in the power of the captain of a frigate to perform much, Lord C. did every thing that a single ship could effect. Happening to be on the coast of Catalonia, he determined to rescue from the hands of the French the castle of Mongal, which commands an important post between Barcelona and Gerona. Accordingly, on the 31st of July 1808, he carried that place, which he destroyed, as soon as the military stores could be delivered over to the patriots. This gallant achievement was communicated to the admiralty by Lord Collingwood, who tendered a tribute of

very high admiration to Lord Cochrane's spirit and naval skill in the enterprise.

The following year (1809) was remarkable for an expedition, in which Lord C. was destined to act a very prominent part. This was the memorable attack on the French squadron in Basque Roads, for the failure of which, or, more properly, for its want of complete success, Admiral Lord Gambier, the commander on that station, by whose orders Lord C. was restrained from pursuing the important advantages he had reason to expect, was brought to trial before a court martial, on the 23d of July. Although the admiral was honourably acquitted by the court, the judgment of the country was strongly against him—and Lord C. after having, on the trial, exposed what he conceived to be pusillanimity and error on the part of the admiral, brought the sentence of the court martial before the commons in January, 1810. After a long and animated debate, however, his lordship's motion was negatived by a great majority, and the thanks of the house were formally voted to the admiral. Lord C's. motion, although supported by all the independent members of the house, was rejected on the very same ground by which his lordship's appeal from the late sentence against himself was negatived; namely, that it is incompetent for the house of commons to bring under review the sentence of a court of justice. In both cases, perhaps, the ostensible reason may not have been the real one; at least, the country seems to have thought so; for the vote of the commons in favour of Admiral Gambier, did no more injury to the gallant Cochrane in the esteem of his constituents, than their recent vote of his expulsion from the house.

His parliamentary history, ever since that time, it were superfluous to detail minutely—it must be fresh in the recollection of every one. If we give credit to the motive (and no one doubts its purity) that has prompted him steadily on, in the undaunted and invariable pursuit of one honest aim—the detection and exposure of abuses in the naval department—we shall place him in the van of patriots, and our seamen's best friend. He lent his aid, by his vote, to every proposed measure of practical reform, but he never joined in general declamation and invective. He spoke always on subjects with which he was versant, things which came under his personal notice, or of which he had well-

grounded information; pointing minutely to facts, and challenging his opponents either to avow or deny them. Although his motions have been generally negatived, it were wrong to conclude, that his efforts have been fruitless. Though the league of peculators have had power or influence to protect abuses which do exist, it is reasonable, and somewhat consolatory, to predict, that the career of abuse in the admiralty must henceforth slacken its pace; and that the vermin which burrow under the wings of the chancery, shall not be allowed to multiply. Such, at the least, may be reasonably looked for, while Lord Cochrane is supported by the independent electors of Westminster—till a happier era come, when the model of that fair fabric which our fathers built and bequeathed to us, shall be restored, and “enormity be taken by the forehead, and branded.”

The propriety of the funding system has been long questioned by political economists. It was a lucky expedient of the wily “William of Glorious Memory,” to attach the pockets of the nation to his half-legitimate crown. In this respect, it would be unbecoming to regret its success; in every other, it is most deeply to be deplored; and, if we except its lawfully-begotten daughter, the state lottery, nothing is more productive of public contamination, or radically more inimical to public virtue. Like every other species of gambling, it is inconsistent with the evenly enjoyment of honest life, and equally inimical to the spirit of honourable enterprise. Its gains are commonly purchased at the expense of another, without merit on the one side, or misconduct on the other; and its losses, from the magnitude of the sum at stake, are frequently irretrievable, even by the utmost efforts of future industry. Its *real* capital, which would otherwise flow in the lawful channels of improvement and national wealth, is fed upon by a spawn of speculators and factors, whose main interest is the propagation of idle or false intelligence to agitate the vessel, which enhances these her navigators in proportion to the dexterity of their oars; in other words, in proportion to the number of their transfers.

Lord Cochrane, whose maritime enterprises had rewarded his gallant conduct with a very handsome fortune, had unwarily deposited the greater part of it in the stocks: he had of course a natural interest in their fluctuations, and had become a daily visiter at the exchange. The well-known conse-

quences of this imprudent connexion are minutely detailed in the subsequent pages. It may truly be said, that his lordship was "out of his element" in Change Alley: and notwithstanding our thorough conviction of his innocence of the *crime*, as it is called, for which he now suffers the triple lash of a law, hitherto kept *in retentis* by Lord Ellenborough, for *special* delinquents alone, it must be said, that had Lord Cochrane moved in his own sphere, and attended to the honourable duties of his office, he should not thus have been caught in the net so artfully laid for him; nor have suffered the galling, though momentary triumph of his political adversaries, and perhaps malicious hidden foes.

HISTORY OF THE HOAX.

This deception, which was so successfully hit off among the stock-jobbers on the 21st of February, 1814, consisted of an account of the destruction of Napoleon, and the entrance of the allies into Paris. It appears to have been *intended to have*, and certainly *had*, the effect of raising the price of the several sorts and descriptions of stock in the public funds, whereby those who were privy to the hoax, and who dealt, or gambled, in the funds, were enabled to gain, without any risk of loss, sums of money proportioned to the extent of their dealings. The hoax was practised by a person who came from Dover, very early in the morning of the 21st February, pretending to have come over in a boat from the coast of France. He hastened, after dropping his news at Dover, on to London in a post chaise and four, the last chaise being taken at *Dartford*. He personated, in point of dress, an officer in the army, said he was the aide-camp of Lord Cathcart, and called himself *Colonel Du Bourgh*; and, having got out of the post chaise at the marsh-gate, took a hackney coach, and went off. Concurrent with this part of the hoax, another was going on from Northfleet, whence came two gentlemen, accompanied with a person named Sandom, who is stated to have absented himself from the rules of the king's bench. These persons, when they arrived at Dartford, took a post chaise and four, dressed the horses in laurel, spread the same news that the pretended *Du Bourgh* had spread, drove over London

bridge, through the city, over Blackfriars' bridge, and having alighted near the turnpike, called the *marsh-gate*, at Lambeth, they went to the bank of the Thames, took a boat to go to Whitehall, and thus disappeared. This branch of the hoax made a great stir in the city, especially among those who were interested in the price of stock. In the meanwhile *expresses*, amounting in number to ten or a dozen in all, conveyed in post chaises and four, were pouring in from Dover and Northfleet with the intelligence to particular persons; a fact both curious and important, because it shows, that the fund-dealing transactions include a regularly established system for the *obtaining of early intelligence from the coast*, which of itself appears to be little short of the act alleged against the pretended Du Bourgh. These expresses appear to have confirmed the success of the delusion. Some of the wary birds were shy, at first; but, as in the case of the bird-catching *a-la-Pipee*, practised in France, when the pies, the jays, the crows, and jackdaws began to flock in, the noise and the confusion were such as to be sufficient to terrify even the bird-catcher himself. To this scene, which those who witnessed it appear to be utterly unable to describe; to this scene of joy and of greedy expectation of gain, succeeded in a few hours, that of disappointment, shame at having been gulled, the clenching of fists, the grinding of teeth, the tearing of hair, all the outward and visible signs of those inward commotions of disappointed avarice in some, consciousness of ruin in others, and in all, boiling revenge, so strongly and so beautifully, or, rather, so horribly, depicted by the matchless pencil of Hogarth.

A committee of what is called the *Stock Exchange*, was immediately formed for the purpose of investigation; and, for the sake of greater despatch of business, they appointed what they called a sub-committee, consisting of ten persons. These gentlemen, on the 7th April, made and published a *Report*, and added to it what they called "*Minutes of Evidence*," which minutes, as they are in substance repeated in the evidence on the trial, it is unnecessary here to premise.

Lord Cochrane, who had been recently appointed to a command, and was absent from town on the publication of these minutes of evidence, instantly returned and emitted before a magistrate the following deposition. Two days thereafter, the letter which follows it appeared in the public prints.

LORD COCHRANE'S AFFIDAVIT.

*No. 13 Green Street, Grosvenor Square,
March 11, 1814.*

I, Sir THOMAS COCHRANE, commonly called Lord Cochrane, having been appointed by the Lords Commissioners of the Admiralty to active service (at the request, I believe, of Sir Alexander Cochrane) when I had no expectation of being called on, I obtained leave of absence to settle my private affairs, previous to quitting this country, and chiefly with a view to lodge a specification to a patent relative to a discovery for increasing the intensity of light.

That, in pursuance of my daily practice of superintending work that was executing for me, and knowing that my uncle, Mr. Cochrane Johnstone, went to the city every morning in a coach, I do swear, on the morning of the 21st of February, which day was impressed on my mind by circumstances which afterwards occurred, I breakfasted with him at his residence in Cumberland street, about half past eight o'clock, and I was put down by him (and Mr. Butt was in the coach) on Snow Hill, about ten o'clock.

That I had been about three quarters of an hour at Mr. King's manufactory, at No. 1 Cock Lane, when I received a few lines on a small bit of paper, requesting me to come immediately to my house; the name affixed, from being written close to the bottom, I could not read. The servant told me it was from an army officer, and concluding that he might be an officer from Spain, and that some accident had befallen my brother, I hastened back, and I found Captain Berenger who, in great seeming uneasiness, made many apologies for the freedom he had used, which nothing but the distressed state of his mind, arising from difficulties, could have induced him to do. All his prospects, he said, had failed, and his last hope had vanished of obtaining an appointment in America. He was unpleasantly circumstanced on account of a sum which he could not pay, and, if he could, that sother would fall upon him for full 8,000*l*. He had no hope of benefiting his creditors in his present situation, or of assisting himself: That if I would take him with me, he would immediately go on board and exercise the sharp-shooters, which plan Sir Alexander Cochrane, I

know, had approved of. That he had left his lodgings, and prepared himself in the best way his means allowed. He had brought the sword with him which had been his father's, and to that and to Sir Alexander he would trust for obtaining an honourable appointment.

I felt very uneasy at the distress he was in; and knowing him to be a man of great talent and science, I told him I would do every thing in my power to relieve him; but as to his going immediately to the *Tonnant* with any comfort to himself, it was quite impossible; my cabin was without furniture; I had not even a servant on board. He said he would willingly mess anywhere. I told him that the ward-room was already crowded, and, besides, I could not with propriety take him, he being a foreigner, without leave from the Admiralty.

He seemed greatly hurt at this, and recalled to my recollection certificates which he had formerly shown me from persons in official situations; Lord Yarmouth, General Jenkinson, and Mr. Reeves, I think, were amongst the number.

I recommended him to use his endeavour to get them, or any other friends, to exert their influence, for I had none; adding, that when the *Tonnant* went to Portsmouth, I should be happy to receive him; and I knew from Sir Alexander Cochrane, that he would be pleased if he accomplished that object.

Captain Berenger said, that not anticipating any objection on my part, from the conversation he had formerly had with me, he had come away with intention to go on board, and make himself useful in his military capacity: he could not go to Lord Yarmouth, or to any other of his friends, in this dress, (alluding to that which he had on,) or return to his lodgings, where it would excite suspicion (as he was at that time in the rules of the King's Bench;) but that if I refused to let him join the ship now, he would do so at Portsmouth. Under present circumstances, however, he must use a great liberty, and requested the favour of me to lend him a hat to wear, instead of his military cap. I gave him one, which was in a back room, with some things that had not been packed up; and having tried it on, his uniform appeared under his great coat; I therefore offered him a black coat that was lying on a chair, and which I did not intend to take with me. He put up his uniform in a towel,

and shortly afterwards went away in great apparent uneasiness of mind; and having asked my leave, he took the coach I came in, and which I had forgotten to discharge in the haste I was in.

I do further depose, that the above conversation is the substance of all that passed with Captain Berenger, which, from the circumstances attending it, was strongly impressed on my mind. That no other person in uniform was seen by me at my house on Monday, the 21st of February, though possibly other officers may have called; (as many have done since my appointment;) of this, however, I cannot speak of my own knowledge, having been almost constantly from home, arranging my private affairs. I have understood, that many persons have called under the above circumstances, and have written notes in the parlour, and others have waited there in expectation of seeing me, and then gone away; but I most positively swear, that I never saw any person at my house resembling the description, and in the dress stated in the printed advertisement of the members of the Stock Exchange.

I further aver, that I had no concern, directly or indirectly, in the late imposition, and that the above is all that I know relative to any person who came to my house in uniform on the 21st day of February before alluded to. Captain Berenger wore a gray great coat, a green uniform, and military cap.

From the manner in which my character has been attempted to be defamed, it is indispensably necessary to state, that my connexion in any way with the funds arose from an impression, that in the present favourable aspect of affairs it was only necessary to hold stock in order to become a gainer, without prejudice to any body; that I did so openly, considering it in no degree improper, far less dishonourable; that I had no secret information of any kind; and that, had my expectation of the success of affairs been disappointed, I should have been the only sufferer.

Further, I do most solemnly swear, that the whole of the omnium on account, which I possessed on the 21st day of February, 1814, amounted to one hundred and thirty-nine thousand pounds, which I bought by Mr. Fearn (I think on the 12th instant) at a premium of twenty-eight and a quarter; that I did not hold on that day any other sum on account, in any other stock, directly or indirectly: and that

I had given orders, when it was bought, to dispose of it on a rise of one per cent ; and it was actually sold on an average at twenty-nine and a half premium, though on the day of the fraud it might have been disposed of at thirty-three and a half. I further swear, that the above is the only stock which I sold of any kind on the 21st day of February, except two thousand pounds in money, which I had occasion for ; the profit on which was about ten pounds.

Further, I do solemnly depose, that I had no connexion or dealing with any one, save as above mentioned, and that I did not, at any time, directly or indirectly, by myself, or by any other, take or procure any office or apartment for any broker or other person for the transaction of stock affairs.

COCHRANE.

Sworn at my house in Great Queen Street, Lincoln's Inn Fields, in the county of Middlesex, the 11th day of March 1814, before me,

A. GRAHAM.

Mr. Editor,

Having learnt from several of my friends, that it would be satisfactory, if, in addition to my deposition, (which was sent forth before I had seen the report of the sub-committee of the Stock Exchange,) I were to explain the circumstances relative to my servants, which is involved in obscurity by the false evidence of Sayer, the police officer ; I beg leave to state, that, so far from an intention to conceal any thing that might be passing in my house on February 21, the fact is, that I had actually two sets of servants there ; one set who had just come, and another who were about to leave me, having had a month's previous warning. As to the man sent into the country, he was to relieve my sea-steward, and is now in charge of my house at Holly-hill. The other man-servant is in town, and both can be called on. I have also to add, that no other man, (as stated by Sayer,) except my servants, live in my house, and that the maid-servants are forthcoming, although they did not think proper to converse with suspicious looking people, who have at times endeavoured to intrude themselves.

It seems to me that there is now no point unanswered, except the purchase of the Napoleons, which, upon application to Mr. Binns, will prove to be totally unfounded.

COCHRANE.

13 Green-Street, Grosvenor Square,
March 14, 1814.

TRIAL

Of Charles Random de Berenger, the Hon. Sir Thomas Cochrane, commonly called Lord Cochrane, the Hon. Andrew Cochrane Johnstone, Richard Gathorn Butt, Ralph Sandom, Alexander M'Rae, John Peter Holloway, and Henry Lyte, before the Court of King's Bench, on Wednesday, June 8, 1814, and following day.

At nine o'clock Lord Ellenborough arrived; and on his taking his seat, Lord Lauderdale, Lord Melville, Mr. Goulbourn, and several other individuals of note, were provided with accommodation beside his lordship. M. de Berenger, attended by his attorney, appeared in court at the same time, as did Mr. Lavie, the counsel for the prosecution—the former looked extremely confident, and excited general attention. Among other things laid on the table, were a great coat of a gray colour, a fur cap, the regimentals dragged from the bottom of the Thames, and other articles, which were *fac-similes* of those asserted to have been worn by de Berenger. in his speculating trip from Dover.

The court having been opened, the jury, which was special, was called and sworn. Their names were as follow :

Messrs. Thomas Brown,
Henry S. Woolaston,
Geo. Spalding,
Geo. Mills,
John Parker,
Lewis Lloyd,

Messrs. John Peter,
John Hodgson,
Thomas Wilson,
Richard Hall,
John Green,
Rich. Cheesewright.

Mr. ADOLPHUS opened the pleadings on the part of the prosecution, from which it appeared that this was an indictment, charging the different defendants with conspiring in a variety of ways, and in eight different counts—by the raising of false reports of the successes of the allies over Bonaparte—of the death of Bonaparte—of the allies being in possession of Paris—of the restoration of the Bourbons—of peace being concluded, &c. to raise the funds to a higher price than they would otherwise have borne, to the injury of the public, and to the benefit of the conspirators. To these various charges the defendants pleaded *Not Guilty*.

Mr. GURNEY, as leading counsel for the prosecution, then addressed the court and jury, and observed, that it was his duty to state the circumstances of criminality imputed to the defendants. He was sure it was not necessary to request the respectable jury, to whom he had the honour of addressing his observations, to dismiss from their minds every thing which they had heard upon this subject before they entered the court that day. In many cases, it happened that much discussion preceded and followed trials which were to take place, or had taken place, in courts of justice; and in some, as in the present, those who were to take their trials, on the very eve of those trials coming on, industriously circulated matter which they conceived essential to their defence. If any thing of this sort had come within the observation of the present jury, he entreated them to lay it totally aside—to come to the consideration of the subject before them with their minds cool, dispassionate, unprejudiced, and unprepossessed, and to attend only to such facts as should be immediately brought under their view. If the conduct imputed to the defendants collectively had been committed by any one individual, it would be considered a crime; when that conduct became the result of a conspiracy, however, it was a crime of a more aggravated nature. To conspire to circulate false news, with intent to raise the price of any thing, was clearly a crime; but if such a conspiracy was formed to raise the price of the public funds, considering the magnitude of those funds, the offence was of a higher description, from the vast number of persons who, by such a subterfuge, must necessarily be injured. The public commissioners of the national debt, the persons whose property was lodged in the court of chancery—all would be injured by a temporary rise of the public funds growing out of such

a statement as this. Every person, in fact, who was any way interested in the funds, must suffer in a greater or less degree; and in proportion to the extent of the injury likely to be incurred, so did it become necessary and important to preserve those funds from the operations of designing persons. If a conspiracy was entered into to raise the funds, in order that the conspirators might sell out to their own advantage, that conspiracy assumed the character of the most malignant and cool blooded fraud; it was susceptible but of one possible aggravation, and that was the poisoning the sources of public intelligence, by imposing upon those officers on whom the people of this country were wont to place the most implicit confidence. This crime, in its most enlarged view, did he charge against the defendants, and this charge would he undertake to prove.

In undertaking a task apparently so difficult, it was not to be expected that he would bring forward the accomplices of the conspirators. Such was not the character of his evidence, nor was it necessary; but he would prove the guilt of these delinquents by that which he conceived to be as satisfactory, if not more satisfactory, namely, by circumstantial evidence. He would undertake to bring home the case to every one of the defendants, and to prove, that every individual of them acted in the furtherance of one extensive conspiracy, in such a clear and incontrovertible manner, as to leave not a shadow of doubt upon the minds of those who heard him, and with as much certainty as if he had brought the witnesses before them who had participated in the commission of the crime. It was difficult, at this moment, for the jury to carry back their minds to the critical time at which the conspiracy was commenced. Such a task, however, must he impose upon them. At that time, that man, for whom all Europe seemed to be too small, was placed in a situation, upon the result of which depended the safety and happiness of the civilized world. At that moment was every man waiting with breathless expectation, and every heart panting for a confirmation of those hopes, which the interests of their country taught them to entertain; this critical moment it was, when the funds were so liable to be affected, and when the propagation of false news for a single hour might be attended with such incalculable mischiefs, that the defendants had thought proper to put their fraudulent schemes into effect.

The first person, and main agent in this conspiracy, was Charles Random de Berenger, a fit person for such an office; he is a foreigner by birth, and resided long in this country; he was calculated, therefore, to pass for a foreign officer. He had been for thirteen or fourteen months resident in the rules of the king's bench prison; he was a convenient man, therefore, after the scheme was effected, to convey out of the country. This gentleman, it would be found, made his appearance a little after midnight, on the morning of the 21st of February last, at Dover. He was first seen inquiring for the ship hotel, to which he was shown. He was dressed in a military great coat, under which he wore scarlet uniform, a medal being hung from his neck, and a star exhibited on his breast.—On his head he wore a dark fur cap, trimmed with broad gold lace. He said he was aid-de-camp to Lord Cathcart, and just arrived from Paris, bearing the most glorious news.—There had been a decisive battle—he said Bonaparte had been killed by the Cossacks, and the allies had entered Paris. Having communicated these gratifying details, he called for a sheet of paper to write a letter to the port admiral, which he despatched to that hon. character by express. On being pressed by different persons for the particulars of the battle, he complained of being fatigued, and ordered a post chaise and four to the door immediately. He offered to pay the landlord with some gold Napoleons, but as the landlord did not know their value he scrupled taking them, upon which this foreign messenger produced some one pound bank of England notes, with which he paid his account, and set off for London. On his arrival at Canterbury, he paid the post-boys a Napoleon each for driving quickly, saying he wished to get to town before the expresses which he expected would be, and actually were, sent off from Dover, and some of which actually arrived in London half an hour before him. It might here be necessary to read the letter which was sent to the port admiral.—(The learned counsel then read the letter set forth in the 1st count of the indictment.)—This was punctually delivered, and nothing but the haziness of the weather prevented the telegraph from being set to work, in which case the conspiracy must have been complete, as the admiralty would then have been the

propagators of this fraudulent invention. When Mr. De Bourg, alias Mr. De Berenger, set off from Dartford, he desired the postboys to drive as fast as possible; but when he had proceeded three miles of the road he said they need not drive quite so fast, saying that the telegraph would, long before he reached town, have communicated the glorious news of which he was the bearer, to government. The postboys, however, assured him the morning was too hazy, and drove on. In going up Shooter's hill, he condescended to be more familiar with the drivers, who had got off their horses, and walked by their sides. He talked of the news with them, desired them not to mention it as they went up, but gave them full permission to detail it on their return, and then kindly gave them some wine, which he had brought with him in the chaise from Dover. After this he asked the postboys which was the nearest hackney coach stand to London? They answered, there was one at the Bricklayer's Arms. This, however, he said, would not do; and, understanding there was one at the Marsh gate, he desired them to drive thither. They accordingly obeyed his instructions, but were very much surprised, on crossing St. George's Fields, to observe their passenger had pulled up the blinds of the chaise. On arriving at the Marsh gate, they found only one coach upon the stand, into which Mr. De Berenger stepped from the chaise, first giving the postboys two Napoleons for themselves. This was at two o'clock in the morning. Very soon after the news was carried to the Stock Exchange, where business had begun at the prices at which the Funds had left off on Saturday. The price of omnium was $27\frac{1}{2}$. In a quarter of an hour it was announced that a messenger from Paris had arrived in town from Dover, and the news which he had brought was stated in detail. The effect of this was to raise the price of omnium to 30. At twelve o'clock, however, no messenger having arrived in the city from government, the price fell again to 29. At one o'clock, however, the fullest confirmation was afforded by an auxiliary to the main plot, and a most necessary auxiliary it was; at that hour a postchaise and four, in which were three persons, two of whom were in French regimentals, drove through the city; their horses were decorated with white ribands, and as they went along, they dis-

tributed little billets confirming the statement which had already been circulated. They drove over Blackfriar's bridge, and, what was very extraordinary, stopped within a hundred yards of the spot where the pretended De Bourg finished his career in the morning; folded up their cocked hats in a handkerchief, put on round ones, and walked off. This manœuvre produced the strongest feeling of enthusiasm, and the funds, which had before been drooping, suddenly rose to $32\frac{1}{2}$. This delusion lasted, however, but for an hour; for by that time messengers, who had been despatched to the government offices returned, and stated that the whole was a gross deception. The consequence was, that the funds instantly fell to their original price. The plan, however, had so far succeeded, that many persons had been defrauded to a very considerable extent.

The Stock Exchange Committee, indignant at such an abominable imposition, laudably determined to use every exertion to discover the parties accessory to it; and they ascertained those circumstances which he had already detailed with respect to Mr. De Bourg, and further that the second postchaise was an underplot, meant to assist, as it effectually did, the main plan, in which De Bourg had acted. This chaise had only come from Northfleet, and the parties within it were Mr. Sandom, a spirit merchant at Northfleet, Mr. Alexander M'Rae, a person in dependent circumstances, and Mr. Lyte, a navy agent, and also a poor man. Mr. M'Rea and Mr. Lyte were the persons who personated the two French officers. Mr. M'Rae, it was discovered, lodged in Fetter lane; and on the Saturday before the 21st of February, he took to his lodgings two great coats and some white ribands, which he employed his wife to make into cockades. On being asked what was meant by these? He said they were to take in the *flats*. On the Sunday he quitted his lodgings, saying, he was going down to Gravesend by water; and on the Monday he returned, about two o'clock, bringing with him one of the great coats, the white lining of which was immediately taken out, and another substituted; the white cockades were burnt; and M'Rae, who had before been labouring under great distress, was suddenly found to be quite the reverse. On being ask-

ed, how he had acquired the money which he exhibited? he said, "if he had not taken it, somebody else would."

This was not all with respect to this part of the plot, however; for it would appear, that on the Monday previous to its execution, Mr. M'Rae had had an interview with a person named Byng, to whom he proposed to take part in a plan for raising the funds, and offered him 100*l.* for his assistance. Mr. Byng, however, indignantly refused the offer; but he did furnish Mr. M'Rae with some little French phrases, which, it would be proved, were the very phrases that had been thrown from the chaise window as it passed through the city; and it was finally ascertained, that Sandom, M'Rae, and Lyte, had been employed immediately by Mr. Holloway, a wine merchant, who had a little dealing in the funds, to the amount of 40,000*l.* omnium, which he sold out on this auspicious occasion. This, however, was merely a part of a whole plot, of which one was the basis, and the other the superstructure; and the jury would find such a coincidence in all the circumstances of the two plans, that they would be satisfied they only formed two parts of one whole, and were not two conspiracies, but one. Further inquiries led to more important results; the Stock Exchange Committee made it their business to ascertain to what place De Bourg went after he quitted the post chaise. They found out the hackney coachman, who had driven him, and who, by his order, proceeded direct to No. 13 Green street, the house of Lord Cochrane, and it was not immaterial to mention that Lord Cochrane had resided in this house but three days; the intimacy which subsisted between his lordship and Mr. De Bourg, alias De Berenger, must, therefore, have been of a very close description. Mr. De Bourg, on his arrival, asked for Lord Cochrane, he was informed that his lordship was gone out to breakfast in Great Cumberland Street: his lordship was sent for, however, and soon joined Mr. De Bourg. Having thus traced this notable messenger into the house of Lord Cochrane, the next thing to be inquired into, was, whether Lord Cochrane could have an interest in the success of the plot? This inquiry would lead to the singular and extraordinary discovery, that this officer, who had so highly distinguished himself in the service of his country; who had been appointed to an important command; who was the representative of the city of Westminster in parliament; and who

should not be found in a situation in which his honest judgment could be biassed, was a deep speculator in omnium, and had been so only one week before this nefarious conspiracy was consummated. On the Monday morning, when De Berenger arrived in London, he had a large balance in his hands, and on that Monday he sold all of which he was possessed. When the court learned this he apprehended they could not but feel that it was not an accidental circumstance which led De Berenger to his lordship's house, and that his lordship was deeply interested in the success of the plot which had been formed, seemed to be equally evident. The inquiry, however, did not end there; it was discovered that Lord Cochrane had not alone been concerned in these nefarious proceedings, but that he was connected with one almost as high in rank and respectability; he meant his lordship's uncle, Mr. Cochrane Johnstone, and to him was added a third person, a Mr. Butt, who had been a clerk in the navy office. It would appear, that all these persons had purchased stock immediately previous to the 21st of February, to an immense amount; on that day they sold all out; and so uniformly had they acted, that when one bought 20,000*l.* the other did the same; and when another bought 95,000*l.* a like sum was purchased by his companions. From the evidence which he should adduce, it would be found that these persons, on the Saturday preceding the 21st of February, were in possession of a balance, amounting in consols and omnium to very near a million; and upon the arrival of the news, they sold not only all, but rather more than all, this sum. It would be further found that Mr. Butt was the principal manager in all these transactions. If there was loss he paid it, and if there was gain he received it. It would next appear that Mr. Cochrane Johnstone and Mr. Butt were in the constant habit of transacting business in a house in the immediate neighbourhood of the Stock Exchange; and that on the morning of the 21st of February Lord Cochrane accompanied Mr. Cochrane Johnstone, if not to this house, at least as far as Snow hill; and, finally, it would be proved, that so anxious was Mr. Butt to sell out on this occasion, that he actually sold more than he was really possessed of. The profit upon the immense sales which had thus taken place, had amounted to little more than 10,000*l.*; but, if the telegraph had worked as had been anticipated, that profit would have exceeded 100,000*l.*; that

it did not, no thanks were due to them or their agents, for all had been done on their part which could have been done to effect this object. When all these discoveries were made, the Committee of the Stock Exchange drew up a Report for the private information of their own members, which, by some means, found its way into the newspapers, and thereby attracted the eyes of all men towards those individuals. In consequence, Lord Cochrane, Mr. Cochrane Johnstone, and Mr. Butt, thought it requisite to make some explanation. Mr. Butt expressed his indignant surprise at the imputations cast upon his character by the committee of the Stock Exchange, and threatened the whole of them with actions. These threats had never been carried into execution. Mr. Cochrane Johnstone, too, had held forth several threats, but they likewise failed.

The committee of the Stock Exchange had asserted that he had taken an office in Shorter's court, Throgmorton-street, situated by the side door of the Stock Exchange, consisting of three rooms, for Mr. Fearn, a Stock broker, without asking his permission. To this assertion Mr. Cochrane Johnstone gave a flat denial, and said he was ready to swear positively that he never did take the office, but that Mr. Butt had given it to Mr. Fearn. He (Mr. Gurney) was sorry to say that he should be enabled to oppose positive testimony to this assertion, and to prove that he actually did take the office before the 17th of February. So much for the denial of facts by Mr. C. Johnstone. Lord Cochrane also felt it necessary to account for his conduct—and to that end came forward with a voluntary affidavit, for which, he was well aware, he was amenable to no human tribunal. This affidavit he (Mr. Gurney) would take the liberty of reading.—(The learned counsel then read the affidavit, which is inserted at page 11.)—Here Lord Cochrane had told them that at the time he was sent for by De Berenger he was at Mr. King's manufactory. He had previously told them, that when he received Mr. De Berenger's note, the signature was so close to the bottom that he could not decipher it. So that it would appear he quitted the city in all haste to see a person whose name he could not distinguish—a very probable circumstance! Then originates an observation that this gentleman, forsooth, could not go to Lord Yarmouth in the dress he then wore. He (Mr. Gurney) would ask, why the dress was not as fit to

appear in before Lord Yarmouth as before Lord Cochrane? The dress, too, was still more objectionable for him to return in to his lodgings. Now he (Mr. Gurney) could well imagine that such a dress might have excited suspicion on his leaving his lodgings, but how it was to excite suspicion on his return, he was at a loss to imagine. He could not help expressing his astonishment, too, that Lord C. should see no wrong in assisting Mr. De Berenger to escape from the King's Bench, and thereby defraud his sureties.

The uniform of De Berenger, which Lord Cochrane stated to be green, also he (Mr. Gurney) should be enabled to prove was scarlet. Mr. Gurney then adverted to the affidavits published by John Smith and his wife, the servants of Lord Cochrane, stating, that their master had slept at home on the night of the 21st of February, both of which he said he should be able clearly to contradict. He then went on to advert to the apprehension of De Berenger at Leith; to the examination of his papers: and to the finding of certain bank notes in his possession, which De Berenger had since so frequently demanded; all of which, he submitted, would tend most conclusively to prove the connexion between De Berenger, Lord Cochrane, Cochrane Johnstone, and Butt—a circumstance that would be more strongly confirmed by the bank notes, which he would distinctly prove to have been in the possession of these three persons before the 21st of February. He should also be enabled to prove that Mr. Cochrane Johnstone called at De Berenger's lodgings, and left a letter for him the very day before his departure.

The learned counsel then proceeded in this strain, to argue that De Berenger was the agent of Lord Cochrane, Mr. Cochrane Johnstone, and Mr. Butt; and that the other persons who were concerned in the minor plot, were under agents employed to give effect to the whole. In conclusion, he called upon the jury to weigh the facts impartially, and to give such a verdict only as justice demanded.

EVIDENCE FOR THE PROSECUTION.

The first witness called was

MR. MARSH,

Landlord of the packet-boat public-house, at Dover, who stated that his attention had been attracted by a knocking at Mr. White's front door, about one o'clock of the morning of the 21st of February; he went out to look, and saw a person of military appearance, in a gray great coat, and red uniform under it, with a star upon it, similar to one now shown the witness, who asked for a chaise and four, and said, he wanted an express horse to send to the Admiral at Deal. He said he was the bearer of most important despatches—despatches more important than had been brought to this country for twenty years past. He came from France, and had landed on the beach. Witness went to call Mr. Wright, who keeps the Ship Inn. The witness came back, and the person asked him for paper, and pens, and ink. Witness got them for him, and he wrote upon it. The witness asked if he should call the collector of the port, who was in the habit of receiving arrivals; this, however, the person declined. Two candles were brought into the room, and he, the witness, was now able to see, that it was M. De Berenger. [Here the witness pointed out M. De B. who was in court.]—Mr. Wright soon after came, and the witness left the room. At the time the witness saw M. De B. he had a German cap on, with a gold fringe; (a cap was here produced, and the witness said it resembled the cap worn by the person at Dover.)

Cross-examined by Mr. Park.—He lived near the Ship Inn, and curiosity first induced him to go and ask the person over; but by the time the witness had got candles, Boots had let him into the passage. Witness could not say whether the night was dark or star-light; he saw him by the light of the candles; and though he had never seen him before or since, he was now able to swear M. De Berenger was the man.

MR. GORING,

a Hatter, at Dover, was at the house of the last witness; he went out with Marsh, and saw a gentleman dressed as

described by last witness, who said he wanted a chaise and four. The witness afterwards saw the stranger in the parlour, and perceived he was dressed in a scarlet uniform, and had a star on his breast, and a fur cap on his head. The witness asked him what was the news he brought: He replied, the news was glorious; but he, as a messenger, was sworn to secrecy. He then sat down to write a letter, and the witness remained some time; there were two candles on the table, and the witness was now able to point out M. De Berenger as the man.

MR. EDIS,

a Cooper, in the Victualling-yard at Dover, was also at the packet boat on the morning of the 21st of February, when a messenger arrived. His testimony was similar to that of the two last witnesses; he also identified M. De Berenger's person, and spoke to the particular articles of his dress.

W. ST. JOHN

was at the Ship Inn, as a guest, on the 21st of February; he had retired to rest; he heard a knocking at the door, and a person calling out for a postchaise and four. Witness hearing this, got up and came down stairs to the coffee-room; saw a gentleman in a military uniform. Witness described his dress as the others had done, scarlet coat, gray pantaloons, red silk sash, and gray military great coat; he had a seal-skin cap on his head, and something resembling a star on his uniform. Witness asked him if he knew any thing of the arrival of Mr. Johnston, a messenger? He replied, he knew nothing at all about it, and requested to be left to himself, as he was extremely ill. The witness left the room, but soon after went in again, when the stranger was writing—Witness afterwards saw him get into the chaise, and in answer to a question put to him by the witness, he said the news he brought was as good as any one could possibly wish. He had seen M. De Berenger, who was now in court, three times; he had no doubt he was the person he saw at the Ship, at Dover; he saw him once at Westminster-hall by accident, but was not in Court when he pleaded.

Cross-examined.—He certainly went to Westminster-hall at the request of Mr. Oakes, a gentleman belonging to the Stock Exchange. He never had any connexion with the Stock Exchange; he was connected with a public charity. He had corresponded with a newspaper, but he should

not have communicated such news as this to the Stock Exchange. He went to Dover at the desire of a proprietor of an evening paper. He had another object also in going to Dover; he wished to get early intelligence to enable him to make out as much of a little omnium he had as he could.

WILLIAM IRONS

was here called; and the witness was asked if he knew him. The witness recognised him as being the boy sent with the despatches to the port admiral at Deal. William Irons stated, that he took the despatch delivered to him to the port admiral at Deal (Admiral Foley.) Mr. Wright gave him the letter.

ADMIRAL FOLEY

received a letter by the hand of his maid-servant about three o'clock in the morning of the 21st of February. He read it, and enclosed it in a letter to Mr. Croker, the secretary to the admiralty. The letters produced were the letter he received from the boy, and that written to Mr. Croker by himself. He got up instantly, and would have telegraphed the admiralty, but could not, the weather was so hazy.

Mr. PARK here took an objection. There was, he said a chasm in this part of the evidence, owing to the absence of Mr. Wright, which prevented the letter in question being traced to De Berenger. How could it be proved that this was the letter delivered by De Berenger to the landlord, to be forwarded to Deal; or how did it appear that this was the letter delivered by the boy to Admiral Foley's maid-servant?

Serjeant BEST also supported the objection.

Mr. GURNEY said, he would remove the objection, by proving the letter to be the hand-writing of De Berenger—for this purpose,

MR. LAVIE

was called, who solemnly stated, that he believed it was Mr. De Berenger's hand-writing.

The letter to Admiral Foley, containing a statement of the pretended successes of the allies, was then read.

MR. WRIGHT,

landlord of the crown inn, Rochester, recollected a post-

chaise and four coming in at an early hour on the morning of the 21st of February; there was one gentleman in the chaise who got out before he proceeded further. The witness was then asked to describe the dress of the person, which he did; and his description agreed with that given by the preceding witnesses. Here he changed chaises, and continued about ten minutes, whilst another chaise was preparing. Witness had some conversation with him. Asked him the news he brought, to which he replied? "The business is all done; it is settled." "How!" "He is dead!" "Who is dead?" "The tyrant Bonaparte."—"Is it certainly true?" "It is; but if you doubt my word you had better ask no more questions." He then proceeded to detail the success which the allies had obtained. Bonaparte, he said, had been taken by the Cossacks, and his body divided in pieces. The allies were in possession of Paris. He further stated, that he was aid-de-camp to one of the emperors, and had been present in the field of battle. He paid his reckoning with a Napoleon; declining to take any change, desiring something to be given to the servants. The witness was desired to look round the court, and if the person he had been alluding to were present, to point him out. After looking round the court, he pointed to M. De Berenger, and said, "That is the man."

T. SHILLING,

the lad who took the chaise from Dartford, deposed that he drove the wheel horses. Before the witness quitted Dartford he heard the waiter ask the gentleman if he brought good news; who said, "Yes, Bonaparte is dead; the Cossacks fought for pieces of his body as if they had been fighting for gold." When they arrived at Bexley, the gentleman asked the witness if the telegraphs could work; the witness said they could not, the weather was so hazy. He then desired they would say nothing of the good news he brought; he had sent a letter to the port admiral at Deal, as he had been ordered to do, to have the news telegraphed. Nothing more was said till the chaise arrived at Shooter's Hill, when the witness and his fellow-servant alighted, and the gentleman gave them part of a bottle of wine and some cakes; he inquired if there was not a coach stand in the Lambeth road; and on being answered in the affirmative, desired to be taken there. When they arrived there, how-

ever, there was no coach on the stand, and they proceeded to the Marsh-gate, where he ordered the chaise to draw up by the side of a coach, and let the step down; witness did so, and he stepped out of the chaise immediately into the coach; and after he was seated gave the witness two Napoleons. Witness knew the coachman; his name was Craig.

On his *cross-examination*, he said, he heard of the reward offered for the discovery of those concerned in the hoax, almost as soon as it was offered.

W. CRAIG,

driver of the hackney-coach No. 111, recollected taking up a fare at the Marsh-gate, on the 21st of February, from a chaise and four; drove to Grosvenor Square; and when there, was ordered to No. 13 Green Street, where the gentleman got out.

G. ODELL,

a fisherman, was dredging for coals, off Old Swan Stairs, the latter end of March last, when he fished up a parcel tied up in a chair cover, consisting of fragments of a suit of clothes, a star, some silver and gold lace, &c.; it was sunk with some stones and pieces of lead. Witness took the parcel to Mr. Wake, at the Stock Exchange.

— SOLOMONS,

military accoutrement maker, Charing-Cross, recollected a person coming to his house on Saturday, February 19, to purchase a military dress. The witness had examined the fragments found in the river, and as far as he could judge, they were fragments of those he had sold. Could not say if M. De Berenger was the person to whom he sold them; that person had whiskers; M. De Berenger had none now.

MRS. DAVISON,

in February last, lived near the Asylum. M. De Berenger lodged with the witness, and finally quitted her house on the 27th of February. Did not see him on Sunday the 20th. Could not say he slept at home on that night. She did not see him till the afternoon of Monday.

Mr. GURNEY said, he would now proceed to the second part of the conspiracy.

T. FINN

stated, that in consequence of a note he received from the Carolina coffeehouse, on the 14th of February, he went there to meet Mr. M'Rae, who told him he had the means of making a deal of money; he said he had a scheme in contemplation; he was employed by men of affluence and consequence; it was one in which there was no moral turpitude, but was daily practised by men of character; it was only biting the biter, or, in other words, a *hoax* on the Stock Exchange. It might be done by going to Folkstone or Dover, and should be done that evening, and it would be necessary to have foreign dresses. The witness said, he would not do it; but he (the witness) could perhaps introduce him to one who would. They accordingly set out for the Jamaica coffeehouse when M'Rae turned round, and would not go. The witness made this proposition in order to obtain some witnesses of the proposal.

SARAH ALEXANDER

lives at 61 Fetter Lane. M'Rae lodges on the same floor with the witness. On Sunday, the 26th, he went out in the morning, and on his return brought two coats, dark blue, done with braidings or ornaments, and two opera hats. He went out again, and returned with some white riband, and made it into cockades. He said it was to deceive the flats. He then said he must go to Billingsgate, as he was to start for Gravesend at three. Witness saw him again next day at two o'clock. He was in his own clothes. He said he had been at Northfleet. Mr. M'Rae was poor previous to this, but afterwards the witness saw him with a 10*l.* and one pound notes.

MR. FOXALL

keeps the Rose at Dartford. He received the letter from Mr. Sandom, and in consequence, sent a chaise to Northfleet, which, on return, contained two gentlemen, with white cockades, and Mr. Sandom with them. The witness forwarded them in another chaise to town. The chaise was ordered to Westminster.

F. FALDWIN,

a post-boy at the Rose, proved that Sandom came from Northfleet on the morning in question; and the witness took him and two other gentlemen to town. The chaise was ordered over London bridge, down Lombard-street, along

Cheapside, over Blackfriar's Bridge, down the New Cut, and when in sight of the Marsh-gate Turnpike, they were ordered to stop. The two persons with Sandom had military coats and hats on, and white cockades, and the horses were covered with laurel. When they stopped near the Marsh-gate, they got out, took off their cockade hats, tied them up, and put on round ones and walked away.

MR. FEARN.

The witness was a stock-broker; had known Mr. Butt several years; was introduced by him to Lord Cochrane and Mr. Johnstone. In February last, he was employed by them to purchase stock. The witness had then an office, No. 86 Cornhill. Mr. Butt had then an office in Sweeting's Alley, from February 12 to 19. Witness saw Mr. Butt at both offices daily, frequently in company with Lord Cochrane and Mr. Cochrane Johnstone. Witness frequently took orders from Butt for Cochrane Johnstone, and the latter always recognised them. On the evening of the 19th, Lord Cochrane's balance, in omnium, was 130,000*l*. Mr. Johnstone had, on the same day, a balance of 120,000*l*. his consols 100,000*l*. Mr. Butt's omnium, on the same day, was 154,000*l*. and his consols 168,000*l*. On the morning of the 21st, the witness sold them all. On that day witness removed to a new office, No. 5 Shorter's Court, close to the side-door of the Stock Exchange. There were three rooms; the witness had one and a small closet; Lord Cochrane, Mr. Butt, and Mr. Johnstone, had another room; Mr. Lance had the third room. Mr. Lance was generally employed by Mr. Johnstone. Mr. Johnstone took it of the witness for an office. Mr. Johnstone took a room for him there. On Monday the 21st they were at the office, Mr. Butt and Mr. Johnstone as early as ten o'clock, at which time business on the Exchange begins. Consols for time opened on Monday as they left off on Saturday. It was near eleven before any good news arrived. Heard Bonaparte was killed; this news had immediate effect on the funds. Witness had previously begun to sell; began at 29 $\frac{1}{4}$ up to 30 $\frac{1}{2}$. Consols began at 70 $\frac{1}{2}$ and rose to 72 $\frac{1}{4}$. Witness received his orders for sale from Mr. Johnstone and Mr. Butt. In the course of the morning, witness heard of a postchaise coming through the city; could not say if they

rose in consequence of that. About two o'clock the funds fell again, the news not proving true.

Cross-examined by Mr. Sergeant Best.—Lord Cochrane, Mr. Johnstone, and Mr. Butt, had, previous to February 19th, bought and sold hundreds of thousands of omnium. They began these speculations as early as November. The witness had orders always to sell when he could make a profit of one per cent. He believed he began to sell on the morning of the 21st before he saw Lord Cochrane, Mr. Butt, or Mr. Johnstone. Witness had expressed a wish to have the counting-house taken for him in Shorter's Court, and it was accordingly taken for him. He liked the situation, and had it still; his name had been up ever since the 21st of February.

MR. BAILEY

was called, and put in a statement, drawn up by him, of the various purchases and sales, together with the days on which both had been made by the parties concerned. On the 19th of February, the gross balance of Mr. C. Johnstone's omnium was 420,000*l.* his consols 100,000*l.*; Lord Cochrane's omnium was 130,000*l.*; Mr. Butt's omnium was 200,000*l.* his consols 178,000*l.* The gross balance of all these was 759,000*l.* omnium, and 278,000*l.* consols. If omnium had been reduced to consols, would be 1,611,430*l.* three per cents. Upon that amount the fluctuation of a single eighth would be more than 2,470*l.* The whole profit made by the sales of all the three, on the 21st February, amounted to 10,450*l.* If the news had not arrived, so large an amount could not have been sold without depressing the market. The news arrived at about half past ten on the Monday morning. In the middle of the day the prices fell, but they were raised again by a sort of confirmation given by a postchaise, which was driven through the city with laurels and white cockades, which raised the market higher than it had before been.

Lord Cochrane's affidavit was then read.

MR. LE MARCHANT

was the next witness. He had been acquainted with Captain Berenger for about 18 months. Berenger had often told him that it was his intention to go to America, and settle there. Knowing his embarrassments, he asked him

how he was to effect this? His answer was, that Lord Cochrane had kept a private purse for him, being a per centage for money made in the funds by advice that he gave; this conversation took place between the 10th and 16th of February, and, as he thinks, upon the 14th. He often spoke of his intimacy with Lord Cochrane and Mr. C. Johnstone.

On cross examination, he admitted the letter to Lord Cochrane requesting a loan of money; and said, that he had no correspondence with Lord Cochrane, except by letter. Being asked by Mr. Best, whether he would have given this evidence if Lord Cochrane had given him the loan, he answered that he certainly would not in that case have come forward, unless he had been compelled to do so; but, if brought forward, he could not answer otherwise. Being asked about his place, and whether he was not suspended by government, he said positively, that he did not conceive himself suspended, but kept merely to give evidence. He said, that upon this occasion, it was not he who applied to the Stock Exchange, but they had applied to him.

THE HON. ALEXANDER MURRAY

was next called. He was himself a prisoner in the King's Bench, and had been acquainted with Berenger for about a year and a half. He had often heard Berenger speaking of his intimacy with Lord Cochrane and Mr. Cochrane Johnstone. He thought that it was about the latter end of January that Berenger had said that he had a plan in his head which would put many thousands into the pockets of Lord Cochrane and Mr. Cochrane Johnstone. He said to him, this must be like your plan of a Ranelagh. Oh no, said Mr. De Berenger, it is a much better thing.

On his cross-examination, he said that Mr. De Berenger was a man of considerable talents and taste, and had been consulted by Mr. Cochrane Johnstone on a plan of building something, to be called either Vittoria or Ranelagh, in the neighbourhood of Alsop's buildings. Mr. De Berenger had drawn a plan, and a very beautiful plan, of this idea. He believed Mr. De Berenger to be a man of honour and integrity, and a perfect gentleman.

J. FARNEY,

a servant to Mr. Basil Cochrane, proved, that Berenger had visited at that house, and that Mr. Cochrane Johnstone had been present at times when he was there.

The clerk to the marshal of the King's Bench stated the names of the persons who were security for Berenger for the rules. There was a Mr. Cochrane, a bookseller, who was no relation to Lord Cochrane, and the gentleman who was now his attorney.

On his cross-examination, he said, that he did not see Berenger on the 21st of February.

The officer who arrested Berenger at Leith, in consequence of a warrant from the Secretary of State, proved the memorandum-book and the several parcels of bank notes that were taken either on his person or in his writing desk.

On his cross-examination, he admitted that a gentleman from the Stock Exchange, who was present at the arrest, told Berenger that it was other men on whom they expected to fix guilt, or something to that effect.

A very long course of evidence was then gone into, for the purpose of tracing the notes found upon Berenger.

MR. SMALLBONES,

a broker, proved, that on the 19th of February he had given a check to Lord Cochrane for 470*l.* 19*s.* 4*d.* for stock sold.

MR. WORMBY,

clerk of the house on which the check was drawn, proved, that in payment of that check he had given a 200*l.* note, No. 634; a 100*l.* note, No. 18,468, and the rest in small notes.

MR. LANCE

proved the changing of the two 100*l.* notes, for which he received two hundred 1*l.* notes, which he gave to Mr. Butt.

On his cross-examination, he said, that he knew that Lord Cochrane had borrowed 200*l.* from Mr. Butt a short time before. (The tendency of the cross-examination was to show, that if, in this instance, 200*l.* of Lord Cochrane's money went first into the hands of Mr. Butt, and afterwards to Berenger, it had been only handed over by Lord Cochrane to Butt in payment of a debt due to him.)

JOHN BILSON,

a clerk in the Bank, proved, that on the 24th of February the two notes of 100*l.* each, last mentioned, were changed at the Bank for two hundred 1*l.* notes.

A parcel of 40 notes, found in Berenger's desk; another parcel of 67 notes, found in his writing case, beside what were in his pocket, were then examined by two bank clerks who were present, and compared them with their books; and they were identified to be notes that were issued among the two hundred 1*l.* notes which had been given to Mr. Butt's clerk in exchange for the two 100*l.* notes.

MR. BROMBY,

a watchmaker at Hull, proved that he had sold Mr. Berenger a watch for 30*l.* which was paid for in notes of one pound each, upon which he had put his initials.

Upon being shown two watches that were found in Mr. De Berenger's writing desk, he said, that neither of these had been sold by him.

MR. LANCE

also proved the presenting a check drawn upon Messrs. Prescott and Co. for 90*l.* He had received in payment, and handed over to Mr. Butt, a bank note of 50*l.* and another of 40*l.* which was No. 6,268.

MR. BENJAMIN BRAY

proved, that, at Sunderland, he had given change of that 40*l.* note to Mr. Berenger, who then passed under the name of Major Byrne. He had no other bank of England note for 40*l.* in his possession for a considerable time, and, therefore, he could speak positively to it.

After some more evidence as to tracing the notes, the case for the prosecution was closed at about 12 o'clock.

Mr. PARK, on the part of the defendant, Berenger, suggested the propriety of adjourning the trial, not on account of the fatigue that the counsel had endured, but for the ends of justice, in order that the case of the defendants might be fairly heard.

LORD ELLENBOROUGH said, that, for his part he was ready to go through with the trial, but should not object to its being adjourned till to morrow. He wished, however, that the defence should be gone into, in order that some witnesses (alluding to Lord Melville and others who had been subpoenaed) who could not, without great public inconvenience, be obliged to attend another day, might be ex-

amined. When that was done, if it was considered convenient to adjourn, he had no objection.

DEFENCE.

Mr. Sergeant Best addressed the court on the part of his clients, Lord Cochrane, Mr. Cochrane Johnstone, and Mr. Butt, who were not, he wished it to be understood, at all willing to avail themselves of any legal objection to the mode of prosecution instituted against them, but anxious only to establish upon that fair trial which they had every reason to expect, the innocence and rectitude of their conduct. The question with them was not whether they were legally prosecuted or not, but whether they should retain their rank and reputation in society, or whether they should be degraded and ruined for ever. For the decision of this question, so important to the character and feelings of his clients, he fully confided in the justice and judgment of the court and jury which he had the honour to address. That the offence charged in the indictment was one of considerable magnitude, he and his clients were ready to admit; and whether that offence was legally cognizable in that court or not, was a matter of no moment to them. But he denied that his clients were concerned, in any degree, in the conspiracy. Whether Mr. De Berenger proved to be Colonel Du Bourg or not; and the negative his learned friend (Mr. Park) was, he understood, prepared to prove; still another question would remain for the consideration of the jury, namely, whether his clients were connected with Colonel du Bourg? That no such connexion was proved, or existed, he was ready most confidently to maintain. The first, as to Lord Cochrane: the main ground relied upon to implicate his lordship in this connexion, was, the amount of omnium sold for him on the 21st of February; for it did not appear that any note found in the possession of Berenger was ever traced into the hands of Lord Cochrane. Sure it was that some of those notes were traced to the two other parties, and that two of the notes given by Lavie to Lord Cochrane were after-

wards exchanged by Butt, and in part found upon Berenger; but that was not evidence to implicate Lord Cochrane, nor was there any evidence to show by whom those notes were given to De Berenger. Then, as to the sale of stocks, it appeared from the evidence that that sale was made in consequence of a general order from Lord Cochrane to his broker, to sell out at any time that the stock should rise one per cent above that at which he had purchased, and not in consequence of any particular order for the 21st of February, upon which day it must be obvious that the noble lord could have realized tenfold, or more, the sum said to have been gained by him, had he been aware of, or concerned in the alleged conspiracy. From some parts of the evidence adduced for the prosecution, it would really seem, and might be inferred, that Lord Cochrane had really engaged in stockjobbing, for the first time, just before the 21st of February, and with a view to the fraud practised on that day. Whether the noble lord should ever have engaged in stockjobbing at all, was a question into which it was not necessary at present to enter; but he could have no doubt that the noble lord would carefully abstain from such connexions in future. However, as to the commencement of his transactions with the Stock Exchange, it appeared that the noble lord dealt in the stocks as early as November last. Of course, the inference to which he had adverted was egregiously incorrect.

Mr. Wright told them, that when he printed Lord Cochrane's affidavit, his lordship said he did not believe De Berenger was the man, but if he was, he had given the clue to the Stock Exchange. Now, unless his lordship was so mad as not to be accountable for his conduct in that or any other court, could he be so absurd as voluntarily to point out the only man through whose sides he could be convicted, if guilty? The learned sergeant then proceeded to comment at considerable length on the narrative of the affidavit, and endeavoured to show, that in every circumstance stated, it was either borne out, or not disproved by the evidence. Even if De Berenger was guilty, that alone did not prove that Lord Cochrane was a party in the conspiracy; all the intercourse that his lordship had had with him would be much more naturally accounted for from their former intimacy, and the plausible story which De Berenger has told of his desire of going out to America as a superintendant of

marines. The circumstance of the colour of the coat De Berenger had on, which was stated in the affidavit to be green, though it had to-day been sworn to be red, was a mistake (if it was one) which might easily happen, because Lord Cochrane had been used to see De Berenger, who belonged to a corps of sharp shooters, in that coloured uniform. The evidence adduced against his client, by no means amounted to circumstantial evidence, which always implied not one or two vague suspicions, but such a chain of connected circumstances, that the facts could not be accounted for, without supposing the guilt. Did it follow, because Lord Cochrane sold out stock on the 21st of February, and because on that day a person called on him implicated in a supposed fraud on the Stock Exchange, that therefore his lordship was an accomplice in the fraud?

The affidavits of his lordship ought to have great weight. These affidavits, it was true, were taken before a magistrate; but his lordship must have been sensible that he was as amenable for perjury, had they been false, as if they had been taken in the court of King's Bench itself. Should he have made these affidavits, though conscious of guilt, he was liable to be convicted not only of conspiracy, but of wilful and deliberate perjury. Nothing, however, had appeared in evidence to invalidate these affidavits. The learned sergeant then took a view of the statements contained in the affidavit, and contended, that there was no proof of his lordship having been in the city that morning, but only at the shop in Snow Hill, where he was accustomed to attend in the mornings, and where the messenger found him, informing him of the arrival of the officer at his house. Had Lord Cochrane been engaged in the conspiracy, it was not at all likely that he would have gone back to his own house to meet him so openly. He immediately returned, from an idea that it was an officer from Spain. Mr. De Berenger having called on Lord Cochrane proved nothing, as he should be able to prove that Mr. De Berenger had repeatedly applied before to Lord Cochrane, to enable him to go out to America. He contended that Le Marchand's evidence was not deserving of credit, and to show this, commented on Le Marchand's letter to Lord Cochrane, requesting an advance of money, and showed the inconsistency of this letter with the evidence he had given this day. The change of dress that De Berenger requested was to enable him to go to

Lord Yarmouth, and the admiralty; and whether Lord Cochrane had acted foolishly or not, in affording the change of dress, his conduct was not unnatural in yielding to the request. Why did De Berenger, it was asked, go to Lord Cochrane's? Supposing Mr. De Berenger guilty, which he was far from being, it would be evident that it would be necessary for him not to go to his own lodgings, and therefore to avoid the scent of the hounds in pursuit of him, he might go to Lord Cochrane's under any pretence. But it was to be observed, that De Berenger sent for him to a place where the plot, supposing it to exist, could be of no service. It would have been much more natural for Mr. De Berenger, to have gone to Snow-Hill to his lordship, as being much nearer the scene where those infamous transactions were every day carried on. It had never been denied that Mr. De Berenger was acquainted with Lord Cochrane; he was well received, as a man of learning and great attainments by many persons of the first respectability in this country—such a conspiracy was only fit for a man in desperate circumstances, and not for a man of honour and character, like Lord Cochrane.

He next proceeded to the case of Mr. Cochrane Johnstone, where the same unfair proceedings on the part of the Stock Exchange were equally observable. They had stated, as an argument, the largeness of Mr. Cochrane Johnstone's balances on that day, being 420,000*l.* but on the 14th these balances were as high as 600,000*l.* and were reduced, before the day of the hoax, to 420,000*l.* which was not likely to have been the case, had there been any plot existing for raising the funds. He began selling so early as the 9th; and even on the 19th, the day before the hoax, sold 18,000*l.* The fact was, he was constantly buying and selling, and had always instructed his broker to sell even on a small profit. It was said, that he had gone into the city that morning; but he was in the habit of doing so every Monday, Tuesday, and Wednesday morning. It was argued, as a proof of the conspiracy, that they had cleared among the three, that morning, a profit of from nine to ten thousand pounds; but the sales made by Mr. Cochrane Johnstone alone, on the 16th, amounted to a profit of 8000*l.* The learned counsel then adverted to the taking of the office, and disproved the evidence first given by Mr. Fearne. The payment of a debt due to Mr. De Be-

renger, and the advance of a loan by Mr. Cochrane Johnstone, would account for the notes traced to Mr. C. Johnstone.

The same arguments would apply to Mr. Butt. There was no evidence to show any connexion with De Berenger. He had often sold stock before, as well as on that day.—Mr. Holloway and Mr. Lyte had come forward and acknowledged their own guilt, but they had said nothing that could implicate his three clients. If they could, they certainly would have stated that the Cochranes were guilty, as they not only would have got a pardon, but even had they done this, the 10,000*l.* would have been willingly given them by the Stock Exchange. Could they have done this, they would have made them evidence on this occasion. He contended that there necessarily must have been some broker or brokers concerned in the plot. It was rather extraordinary, that notwithstanding the strong, and, he contended, illegal, measures, of breaking open De Berenger's trunks, that not a single letter or document had been produced as evidence.

Mr. PARK spoke in behalf of Mr. De Berenger, and cautioned the jury against the prejudices that all the circumstances of the case had a strong tendency to create.

Mr. Sergeant PELL then addressed the jury for the defendants, Sandom, Holloway, and Lyte. He contended, that although Holloway and Lyte had confessed that they were implicated in a plot for raising the price of stocks, yet there was no ground for supposing that it was any way connected with that of which the other defendants were accused. The only circumstance that at all appeared to connect the act of his clients with that carried on by the man who called himself De Bourg, was, that the chaises employed in both transactions drove to the same spot—the Marshgate. Yet it would be recollected, that it was merely from accident that the chaise of De Bourg drove to that place, as he ordered the postboy, in the first place, to drive to the Bricklayer's Arms, where he found no hackney coach, and was recommended by the postboy to drive to the Marshgate, as a place where it was possible that a coach could be found. It had been said by Mr. Gurney, that it would appear probable that Sandom and De Berenger had become

acquainted in the King's Bench prison, but nothing of this kind had been proved, and it was not even known that Sandom had been in that prison at the same time with De Berenger. Sandom had, for nine months previous to the day of the two transactions which were the subject of the present trial, resided at Northfleet. As to any suspicion to be derived from the evidence of M'Rae, it was very much doubted; as he offered, for an extravagant sum, 10,000*l.* to make a discovery; neither was the evidence of Mr. Finn to be relied on by any one who was in the habit of observing the manner of delivering evidence in a court of law. This witness pretended to have asked whether there was any moral turpitude in the fraud, which, he said, was proposed to him, as if there could be any doubt on such a subject; and then, though he would not engage in it himself, said he would procure some one who would. There being no evidence to prove the connexion of the Northfleet, with the Dover plot, and much to negative it, he submitted his case confidently to the jury.

SECOND DAY.

At twelve o'clock the trial re-commenced at Guildhall.

Mr. BROUGHAM commenced by moving, that several letters which had passed between Lord Cochrane and Mr. Le Marchand should be read.

The letters of Le Marchand were read first, and contained a statement of circumstances communicated to him by De Berenger, relative to the Stock Exchange hoax; and also minutes of a conversation which Le Marchand stated to have taken place between himself and De Berenger relative to the connexion between him, De Berenger, and Lord Cochrane; and which was in substance the same as Le Marchand had given in evidence yesterday. A letter was also read from Le Marchand to Lord Cochrane, requesting a loan of money. This letter also contained a declaration of the writer, that he was fully persuaded the whole of De Berenger's statement of the pretended conversation between him and Lord Cochrane was founded in falsehood.

LORD MELVILLE

was then called and examined; and stated, that Sir A. Cochrane had made several applications to him on behalf of De Berenger, to have him appointed to accompany him in his command to America. These applications were made about six months ago. Sir A. recommended De B. as a fit person to train a company of sharpshooters to be raised in America; and also stated, that he should be content to take De B. as an engineer. Lord Melville advised Sir A. to apply to the secretary of state, and if he approved, he (Lord Melville) would make no objection. Lord Cochrane was appointed before Sir A. sailed.

COLONEL TORRENS

recollected an application being made to him, in the latter end of December or beginning of January last, in favour of De Berenger, by Sir A. Cochrane, recommending De B. to be appointed to a command under him, in his expedition to America. Great difficulties were started to his appointment.

LORD ELLENBOROUGH could not see how these difficulties had a bearing on the question now at issue.

Mr. BROUGHAM said, it was intended, by this evidence, to show the cause of the communication which existed, and had been so much relied on by the prosecutors.

LORD ELLENBOROUGH. "To do this, it is not necessary to go into a history of the difficulties which impeded his appointment."

Witness resumed. These difficulties had been found insurmountable, and De Berenger received no appointment.

MR. GOULBORN

stated, that an application had been made to him by Sir A. Cochrane in favour of De Berenger, for obtaining him a situation in the colonial department.

LORD ELLENBOROUGH said, this application was in writing, and should be produced, though he saw no advantage which could arise from it.

Mr. PARK. "We only wish, my Lord, to show, that there was a reason for the intercourse between Lord Cochrane and M. de Berenger, independent of any stockjobbing transactions."

MR KING,

a tin-plate worker, was applied to by Lord Cochrane, last summer, on the subject of manufacturing a new description of a signal lamp, for which Lord Cochrane had since obtained a patent. Lord Cochrane was in the habit of coming every day to the witness' manufactory, No. 1 Cock-lane, Snow-Hill. He was there on the 21st of February last. He came about 10 o'clock, as he usually did. Witness recollected his lordship receiving a note on that day, whilst in the manufactory. It was about 11 o'clock when his lordship received this letter, which he opened and read, and soon after went away. It is about a mile and a half from Cock-lane to Grosvenor-square. His lordship made no observation as to the note, except saying to the servant "Very well, Thomas."

THOMAS DEWMAN

has been servant to Lord Cochrane's family for 19 years. Recollects taking a note to Lord Cochrane on the 21st of February, from a gentleman who came to his lordship's house on that day. Witness never had seen the gentleman before. Went first to Cumberland-street with the note, and not finding his lordship there, he came back with the note; when the gentleman, on the witness saying it was possible his lordship might be at Mr. King's, desired the witness would take the note there to him. Witness did so, and saw his lordship, who read the note, and the witness came away and left him there. His lordship had at that time no other man-servant but the witness, in Green-street. Davis, a man who had quitted his lordship a few days before was in the kitchen in Green-street, at the time the gentleman came. Davis was now abroad with Admiral Fleming. Witness does not know Lyte or Holloway.

GABRIEL TAHOURDIN

was solicitor to Mr. Cochrane Johnstone. In 1813, Mr. C. Johnstone was engaged in erecting a building in a piece of ground he had in Alsop's buildings, to be called Vittoria. The witness introduced Mr. De Berenger as a fit person to plan such a building. In September, last year, Mr. De Berenger had made considerable progress in that plan, and had prepared a prospectus of the whole design; and Mr. C. Johnstone, previous to his going to Scotland in October, last year, made De Berenger a payment on account. Other payments had since been made, but the witness did not know of them of his own knowledge. In February last it was settled what sum De Berenger was to receive; on the 22d of February, Mr. C. Johnstone sent a letter to the witness, inclosing one from De Berenger. The letters were read. That of Mr. C. Johnstone stated, that it was the intention of the writer to pay De Berenger, in the course of that week, for his trouble; he wished to know if the witness had paid him any thing in addition to the 50*l.* already paid to him. The baron had applied for a loan of 200*l.* and offered certain security; the writer wished to let him have it, though he thought but little of the security. If, however, he should advance it, and never have it again, he should have the pleasure of serving the baron.

The letter of De Berenger was also read, and put it to the consideration of Mr. Johnstone, whether 250*l.* would be too much for the plans of "Vittoria, &c." The letter, in addition, stated, that if he could obtain a farther sum of 200*l.* he should then be able to go to America, though he laboured under considerable apprehensions least some of his creditors should lodge detainers against him, as his intention of going abroad had been made rather too public. The witness resumed, he had some conversation with Mr. Johnstone on the subject of these letters. The receipt for fifty pounds, dated 29th September, 1813, witness took from De Berenger, and handed over to Mr. Johnstone. The other receipt for 200*l.* for drawings, dated 26th February last, was put into the witness' hand three or four days after it was dated. The witness did not pay De Berenger the 200*l.* The note of hand put in, dated 28th of February, 1814, for 200*l.* from De Berenger to Mr Cochrane Johnstone, the witness received at the same time he received the last-mentioned receipt. Beside the plans relating to Vittoria, Mr. De Berenger had been engaged in drawing out subordinate plans for Mr. Johnstone. The witness was acquainted with De Berenger some time before he knew Mr. C. Johnstone, therefore did not become security for him at the instance of Mr. Johnstone. (The letter written by Du Bourg to Admiral Foley was here put into the witness' hand.) He was asked if he had a knowledge of De Berenger's handwriting; the witness said he had a thorough knowledge; he had seen his letters a number of times, and did not believe the letter now produced was De Berenger's writing; he believed De Berenger to be a man of strict honour and integrity.

Cross-examined by Mr. Gurney. Witness believes the writing in the book now produced to be, part of it, De Berenger's handwriting; can't distinguish which; some part of it looks more like than others; 'tis not his general handwriting; the smaller part looks like his handwriting. I don't know what to say to the rest.

GENERAL CAMPBELL

knows Mr. Johnstone, met him at the Perth meeting, during the second week in last October; he then showed the witness some plans and a prospectus of a new public build-

ing, intended to be erected in the neighbourhood of the Regent's park, to be called ; " Vittoria" the plan now produced was similar to that which Mr. C. Johnstone showed him.

LORD YARMOUTH,

Colonel of the duke of Cumberland's sharpshooters; De Berenger was acting adjutant; his lordship has known him since the beginning of 1811; witness had received many letters from De B. and had seen him write, and was well acquainted with his hand; (The letter to Admiral Foley was here put into witness' hand;) if witness had heard nothing of the pending transactions, and had seen the letter, he should have said it was not M. De Berenger's handwriting, the character was larger and longer. A letter was here produced which the witness received on the day of the date, March 19th, or near that time; that letter was different, the character was less round; there was one particular character which much resembled Mr. De Berenger's writing, that was the capital R. in the signature of R. De Bourg; the R. generally made by Mr. De Berenger when signing "Random."

Question by Lord Ellenborough. "What is the uniform of your lordship's corps?" *Answer;* "The body of the uniform is a deep bottle green with a red collar, a waistcoat trimmed with fur, but no star or decoration resembling that produced."

One of the jurymen. "Would your lordship have been surprised, if M. De B. had appeared before you in the uniform of his corps?"

LORD YARMOUTH; "Certainly not; I should have considered it as extremely proper for him to do so."

SIR J. BERESFORD

had seen De Berenger twice, but had no knowledge of his handwriting. In the beginning of February, Sir A. Cochrane had represented the wish of De Berenger to go to America. The witness mentioned the circumstance at the Horse Guards, but was advised not to apply to the duke of York, as no application on that subject could be attended to.

MR. J. STOKES,

clerk to Mr. Tahourdin, shown the letter to Admiral Foley; did not think it at all like De Berenger's handwriting. The R. before alluded to did not at all correspond with De Berenger's mode of making that letter.

W. SMITH,

servant to De Berenger, had seen his master write frequently, and knew his hand well.—[The letter put into the witness' hand.]—Did not think it was De Berenger's writing; was positively sure it was not his handwriting. Witness had been servant to De Berenger three years and a half. Was with him to the time of his quitting London on Sunday, the 27th of February. Witness well recollected his master was at home on Sunday, the 20th of February; he slept at home on that night; he went out about eleven on Sunday morning, but returned soon after, and continued at home till four o'clock in the afternoon. Witness and his wife went out soon after, and returned about eleven at night. De Berenger was not then at home, but came in soon after, and slept at home. Was certain of that circumstance, as witness heard him go to bed. He did not breakfast at home next morning, nor did witness see him at all on Monday till about three o'clock.

Cross-examined by Mr. Gurney.—Said that he let him in on Sunday night; (looked at a letter which he said he had written to Lord Yarmouth of his own mind;) had his military gray coat here; had never acknowledged that his master slept out; had never said so to Mr. Murray, or to Mr. Davidson; nor that he had left the key for him. Did not attend his master in the morning; he was a gentleman that wanted no attendance till breakfast; he was a quiet man; remembered changing a 50*l.* with Mr. Secks; received it from Mr. De Berenger; received also 20*l.* from him the day before his master went finally away; did not tell Mr. Davidson that his master would have gone off on Saturday, if Mr. Johnstone had brought the letter sooner; his master dined out on the 21st, but did not say where he had been; saw a black coat that day which was not his master's; drew the affidavit, which he made from his own mind; had seen no one on the subject; Lord Cochrane he

never saw; did not speak to Mr. C. Johnstone, nor Mr. Tahourdin upon it: took the affidavit to Mr. C. Johnstone afterwards.

Examined by Lord Ellenborough.—Said, he was sure his master was at home on the Sunday evening.

MRS. SMITH,

the wife of the last witness, recollected Mr. De Berenger being at home on Sunday, the 20th of February; he went out about four, and she and her husband went out, and returned about eleven. Her husband went in first, she stopped to get some beer; her master was there when she returned; she made the bed always; she rose on Monday about seven: he went out before breakfast, and before her husband went out: she made the bed on Sunday, and on Monday again, about twelve o'clock, after her master had returned: the bed was as usual when he slept in it: did not herself sleep in it: her husband did not: her husband and she slept in their own bed. Her master had a black coat on when he returned on Monday, and a bundle in his hand: saw a great coat wrapped up in it.

Cross-examined by Mr. Rolland.—Said her master had no other servants: never rang for water in his bed room to shave: he used cold water. She was rather surprised that he had not rung for breakfast on the Monday. On the Sunday her master went out in a black coat: did not observe the coat on Monday, whether it was too large. She made the affidavit of her own accord. Her master sometimes went out in his green drill dress. Did not know what was done with her affidavit. Her master sometimes wore whiskers, but she did not know how often; she seldom saw him.

JOHN M'GUIRE,

hostler at Mr. Smith's yard, at Chelsea, was well acquainted with the defendant's person, and remembered seeing him on Sunday in question; he remarked it was Sunday, because he was in the Rules; he had lived at Chelsea before that time; it was a quarter past six in the evening, at the yard-gateway. He asked if the six o'clock coach to London

was gone; witness told him it was, and the seven would go in three quarters of an hour; he said he would not wait, and went towards London. He mentioned this to his wife that night, viz. that he had seen Smith's master *at a quarter past six*. The defendant went from Chelsea to the Rules.

On his cross-examination he said, he had known De Berenger $4\frac{1}{4}$ years. He told the defendant's servant, Smith, what he had seen on 6th March, and Smith said his master was not out of the Rules, and he was surprised at his being seen at Chelsea; he had a black coat, gray waistcoat, and overalls or pantaloons; he had no whiskers.

In answer to a question by Lord Ellenborough, he said, he made the observation to Smith, because he thought it wrong that the defendant should be out of the Rules. The place was three miles from the asylum.

THOMAS HOPPER,

architect, saw Mr. Cochrane Johnstone's premises, Alsop's buildings, two nights ago; he looked at the plans, which he likewise saw then, and a prospectus for laying out the plan; he could not say what was a reasonable compensation for the trouble of surveying, laying out, and planning, but thought from 200*l.* to 300*l.* might not be excessive.

ANN M'GUIRE,

wife of the last witness but one, said, that her husband did mention to her at the time what he had testified. It was the Sunday before Shrove Tuesday, and her first child's birth day. Her husband wondered whether the defendant had got his liberty or not.

MR. TREGEAR

remembered being at Mr. Donathorn's, cabinet-maker, York-street, Westminster, in February: he went on the 17th: he let his house, 89 Holborn, on that day, and staid there till now. He remembered seeing De Berenger there twice on the 20th very particularly; the first time was between nine and ten in the morning; the last between eight and nine in the evening: he then staid there half an hour; the witness had seen him there about making drawings of furniture for Donathorn. The witness is out of business; he was a hatter in Holborn: his wife and Mr. and Mrs. D. were in the parlour in the evening; the defendant said

he would not come in to disturb the company, and retired with Mr. D. The witness had no doubt of his person.

On cross-examination, he said, he had not whiskers; the witness did not know whether he was used to wear them.—He did not look so particularly into a gentleman's face as to see whether he had whiskers. The witness had himself large whiskers. The defendant had a black coat that evening; he went into the garden with Mr. D.: he did not know whether snow was on the ground: Mr. D. wanted some alteration in the premises, and they went to look, at nine o'clock in February. He had never seen the defendant with Mr. Tahourdin till last week: he did not know they were acquainted before. The alterations in the garden were not made yet. He went to Mr. Tahourdin with Mr. Donathorn to become a witness; he did not know before last week that he was to be a witness. He recollected the circumstance in the morning, because Mr. D. knocked at the door where he slept, and said De B. was come.

In answer to a question from Lord ELLENBOROUGH, he said he had lately justified as bail in small sums twice. He did not recollect whether he had been bail oftener.

MRS. TREGEAR,

wife of the last witness, said, that Mrs. D. called on her that morning, as there was a gentleman come to look over the house; she threw down the sash, and saw De Berenger in the garden; she saw him again in the evening between eight and nine; she is sure he was the man; he would not come in, and walked backwards into the garden with Mrs. D.

On her cross-examination, she said it was not Mr. D. who called then. She could not say whether Mr. D. or the defendant applied the rood to measure the garden; it was a wet morning, and the rain cleared the snow. They did not afterwards come into the room.

MR. DONATHORN

remembered the last witness coming to live with him, and very well seeing the defendant between nine and ten in the morning in question. He wanted to make some alterations in his garden, and the defendant came about other work, viz. furnishing Miss Johnstone's house in Great Cumberland Street. He also remembered the defendant's coming in the

evening; they went into the back parlour then, not into the garden. He came again about the same business; the witness was going to make the house an inn, and the garden a pleasure garden; the defendant was to make out a plan. In the morning they had a ten foot rod. It was a damp cold morning, misty rain, and very cold.

On his cross-examination, he said the defendant came to town as a friend of Mr. Cochrane Johnstone. It was the witness that called Mr. and Mrs. D. They afterwards went twice over the bed room. Mr. Tahourdin was the witness's attorney by the desire of the Hon. Cochrane Johnstone, who thinks himself very ill used by a set of villains. The witness has commenced 135 actions against persons of the Stock Exchange; Mr. Cochrane Johnstone is to save him harmless.

Mr. GURNEY proposed to call the Hon. Mr. Murray; but Lord Ellenborough thought it unnecessary. "If you think this last part about the alibi requires a reply," said his lordship, "you disparage the jury."

Mr. GURNEY then replied. He said that the learned Sergeant (Pell) who was concerned for the two defendants who were implicated in what he had called the under plot of this drama, had contended, that there were two separate and distinct conspiracies, and had insisted upon the acquittal of his clients upon this indictment; and very properly, if this were the case. But if there were two conspiracies, then had miracles not ceased; they were only two parts of one and the same conspiracy. In a conspiracy, it was not necessary that every one of the parties should know all the others; it was enough if there was one general plan and end, and if each had his part assigned. It was plain that the parties in the second postchaise from Northfleet were cognizant of part, if not of all the conspiracy. They were seen lending themselves towards its execution. There was their own testimony against themselves. The defendant, M'Rae, when the plan was ready to be divulged, came forward to disclose, not a part of the conspiracy, but the whole. The learned counsel for this defendant, who never abandoned his clients, had surrendered the defence of Mr. M'Rae; and the learned Sergeant (Pell) contended that the whole of Messrs. Holloway and Lyte's confession must be taken to-

gether, and they had expressly excluded the other parties. The learned counsel then proceeded to comment upon the defendants' transactions at the Stock Exchange, and said, that for them to get out without great loss, was in itself gain; for it would be recollected, that when the subsequent ill news arrived, omnium fell to 12 per cent.; and if this news had arrived on the morning of the 21st of February, they would have been losers of 150,000*l*. As to their former large purchases of omnium, when once a man begins to buy, he must go on, to keep up the market; but the moment the false news arrived, they sold all. It had been said, that, previously to this, they were buying in all directions, and by all sort of brokers; they wanted more than brokers thought it prudent to stake their credit upon buying.

Upon the subject of the identity of the defendant, De Berenger, an *alibi* had been set up; but such a one as no man living would believe, and no two witnesses agreed in. His learned friend (Mr. Park) had promised them the testimony of two watermen who rowed the defendant across the Thames on this day, and remembered the circumstance from its being the first day on which the river was open. They had not been produced; but even if they had, this was a case unassailable by any *alibi*; for, supposing the defendant's person had not been identified all the way as it had been, the learned counsel had taken him up at Dover, like a bale of goods, and had watched him all the way till he delivered him at the house of Lord Cochrane, and took his receipt for him. If he had not been identified by the boys all the way, he was by his Napoleons. Who was it that went to Lord Cochrane's? It was not pretended to be other than Mr. De Berenger. If this had been a case in which the lives of the defendants had been in question, instead of the case of a misdemeanour, had not men been executed upon less evidence than this? If De Berenger was De Bourgh, what became of all the criticisms on handwriting with which the court had been occupied? Mr. Lavie had made repeated observation of the defendant's handwriting, having often seen him write, and made it with a view to the very proof in question; and he positively swore he believed the Dover letter to be in the defendant's disguised hand. But, whether it was written by him or not, it was clear that he sent it to the admiral of the fleet. The defendant's witnesses had sworn, that it did not resemble his

ordinary handwriting. No; he was not such a fool as to write as he wrote every thing else. As Lord Yarmouth said, the letter in question was more angular and stiff. But those who disguise their handwriting are sure to betray themselves at the end of their task; and Lord Yarmouth testified that the capital R was like that of the defendant's signature of his name "Random."

The learned Sergeant (Best) had laid a good deal of stress upon the defendant's (Lord Cochrane's) affidavit, who was said to be incapable of swearing falsely. Mr. Gurney should not have believed he could have done so some time ago. But he had dealt largely in speculation, which had involved him so deeply that there was no other way of extrication; and then he involved himself still deeper in crime. The great agent of this fraud had been traced to Lord Cochrane's house in the dress of his fraud; and his lordship's affidavit as to the dress he wore was without confirmation. His lordship said that he had a gray military great coat, a *green* uniform, and a fur cap. Mr. Gurney had proved the uniform to have been *red*. But then it was said, his lordship's affidavit was made three weeks after the occurrence, and that he had confounded the green uniform, which he ordinarily wore, with the red one which he then wore. "If I am to make an observation as to a man's dress," said Mr. Gurney, "give me the only time when he wears a particular dress. The circumstance of De Berenger's having then, for the first time, a scarlet uniform, could not have escaped Lord Cochrane's observation. But if it had, there was the star and medallion!" But it was said that De Berenger could not wait on Lord Yarmouth in a green uniform, because, forsooth, it was the uniform of his corps, and one in which it would have been not etiquette to have gone! Lord Cochrane, therefore, accommodated him with a black coat. The affidavit also swore, that the signature of the gentleman who sent for him was written so near the bottom of the slip of paper that he could not read it; but it seemed that he found room to write a postscript at the foot of it. Two of Lord Cochrane's servants had not been called to confirm his affidavit; one of them, Davis, it was stated, was gone abroad with some admiral, but no reason was given for not calling the maid servant.

His lordship took credit for furnishing the name of the defendant, De Berenger; but *when* did his lordship give

this up? On the 11th of March, De Berenger having quitted London on the 21st February preceding, and being, as his lordship had no doubt, out of the country. He had not gone to Portsmouth then, but to the north.

The defendants had next proceeded to account for the bank notes found in De Berenger's letter case. They knew the prosecutor's case very well, and prepared themselves accordingly. It was pretended, that all these notes were given for drawings; for these, the defendant, De Berenger, had received 50*l.* on account; but no memorandum of this passed between him and Mr. Cochrane Johnstone; it was only noticed in a postscript to a letter from De Berenger to him, beginning with an *a-propos*. Then came his letter to Mr. Cochrane Johnstone, in which he said, that the latter had often been very pressing upon him to take money. When did this fit come upon him? On the 22d of February. There was then a receipt from Mr. Cochrane Johnstone for 200*l.*, and a promissory note for 200*l.* more. Mr. Butt, who was the same with Mr. Cochrane Johnstone, took one two hundred pound note to Messrs. Bonds, to get it exchanged for two one hundred pound notes; and then the same agent was sent to the bank to get the one hundred pound notes exchanged for one pound notes. The same party performed the same offices for 200*l.* more. Of the former sum, sixty-seven one pound notes were found in De Berenger's writing desk; of the latter, forty-nine.

LORD ELLENBOROUGH then charged the jury. He said this was an offence of great malignity, and charged eight persons with wickedly conniving to effect a public injury. The evidence of such an offence, it was not to be expected, could be collected from the *mouths* of the parties, but must appear from their *conduct*; and if it appeared that they all entered into conspiracy for the same purpose, and that their endeavours combined to effect it: a foundation for such a charge as the present was laid. The parties need not have seen one another before, as in the case of rioters besetting a house at different times for the same purpose; or of housebreakers, some entering into one part of the house, and some into another at the same time. The acts of these persons prove that they have a joint contrivance; and so it was from these offences up to treason. It was enough if such a conspiracy operated to the prejudice of the public without the conspirators deriving any private corrupt advantage. The detriment

which the public received from this false elevation of the funds was proved by the sum purchased by Mr. Steers that day, as broker for the Accountant-General; and every one of the suitors of the court of Chancery for whom stock was purchased on that day, was a loser by so much as the stocks had risen in price on account of this false news. If it appeared that the Northfleet expedition was auxiliary to the Dover one, then the defendants were all guilty of the same conspiracy; and the jury would say whether they were not parties of the same. They servilely copied each other in both; the instruments employed were disguises; these disguises were in both military; in both, false news was to be propagated. The link between the two was proved by the defendant M'Rae's confession; he was to offer himself up for 10,000*l.*; and of this sum Mr. Cochrane Johnstone made the extraordinary proposal of advancing 3,000*l.* Why did he this, but to mislead the public, and make them think that M'Rae was the sole artificer in this fraud?

The first question for the jury was, whether the defendant, De Berenger, was the man who, on the 21st of February, at one o'clock in the morning, was taken up at Dover, and ultimately brought to the house of Lord Cochrane himself? If the telegraph could have been worked on that morning the 50,000*l.* would have been bought before De Berenger arrived in town, at the best time of the day, when the news was fresh. Upon the character of the Dover letter, Lord Ellenborough observed, that it was written in an upright, artificial, unnatural hand, no two words alike, as men ordinarily write. But, supposing it was not written by the defendant, if he had meditated the fraud, was it not easy for him to bring the letter with him ready written, and go through the farce of writing at the inn?—An *alibi* had been set up; but never, since his lordship had been present in a court of justice, had he been so strongly convinced of the truth of evidence as of that which this *alibi* sought to overthrow. The witnesses who identified the defendant, threw their eyes about in every direction of the court; and then, as if struck by electricity, fixed upon the defendant. This was the case in every instance but one; in which the question was put, “Is this the man?” as is every day done in criminal trials with respect to prisoners at the bar. The trifling variations in the witnesses' evidence confirmed the testimony, and excluded all idea of previous contrivance. If they were not to be believed, then every man who had been hung from the

Old Bailey had been murdered; all former evidence as to identity was so much weaker than this. As to the *alibi*, where did the defendant *dine* on the day in question? That had not been proved. His lordship reprobated the word *hoax* which had been applied to this fraud by the defendant's letter; it was a robbery, a fraud upon the public, and was not to be treated as a matter of pleasantry. His lordship then recapitulated the whole evidence, commenting thereupon as he proceeded. The Bricklayer's Arms, he said, was too near the King's Bench for the defendant to stop at. Having hunted down the game, the prosecutors at last showed what became of his skin; and it was a very material fact, that the defendant De Berenger stripped himself at Lord Cochrane's. He pulled his scarlet uniform off there; and if the circumstance of its not being green did not excite Lord Cochrane's suspicion, what did he think of the star and medal? It became him, upon discovering these, as an officer and a gentleman, to communicate his suspicions of these circumstances. Did he not ask De Berenger where he had been in his masquerade dress? It was for the jury to say, whether Lord Cochrane did not know where he had been. This was not the dress of a sharpshooter, but of a mountebank. He came before Lord Cochrane fully blazoned in the costume of his crime.

His lordship then proceeded to read to the jury the whole of the evidence, which took up nearly two hours. He observed, that as to Holloway's admitting to the Stock Exchange committee, that he himself was concerned in a plan of deception, formed for the purpose of raising the price of the funds, his denying that in that plan he was at all connected with De Berenger or the Cochranes, this was a matter for the jury to take into their serious consideration. They would consider, whether what he admitted gave credence to what he had denied, or whether his scheme of deception was not one of the ramifications of the general plan charged in the indictment. As to Mary Smith swearing that De Berenger's bed had the appearance, on the morning of the 21st, of his having slept in it, it might as well have that appearance if he had only laid down a short time in it.

After his lordship had finished the reading of the evidence, he told the jury that the whole evidence was now before them; and that they must see that it was not only a great public question, but a question of great interest to the individuals concerned. If they believed that the persons in-

dicted had been connected in the scheme of raising the price of the funds in the manner which was stated by many witnesses, and for the purposes charged in the indictment, they must find the persons so concerned guilty. It was their province, from the evidence they had heard, to say whether any or all the persons indicted were guilty, or whether they believed some of them guilty, and others not guilty.

The jury then withdrew for about two hours and a half, and on their return found all the persons indicted—*Guilty*.



June 20.

This day, Messrs. Best and PARK moved an arrest of judgment in this case upon two grounds—1st, that it was not stated against whom it was to take place—the second ground was, that it was stated to raise the funds of the United Kingdom of England and Ireland, whereas there was no such description of funds, all being English funds. After a great deal of argument, the court held that the indictment was sufficient, because the rumours were false, and might be injurious in their consequences to the United Kingdom at large.

LORD ELLENBOROUGH then proceeded to read his notes of the evidence adduced on the trial, which occupied his lordship about three hours. During the reading of many portions of it, Lord Cochrane was so much affected as to shed tears repeatedly, and he was particularly affected when his voluntary affidavit, as it has been called, was read. The evidence having been gone through,

LORD COCHRANE addressed the court. Relying on the confident hope that their lordships would extend their utmost indulgence towards him, he should endeavour as shortly as possible to vindicate himself from the aspersions that had been cast upon his honour and character; and in order that he might take up as little of their lordships time as possible, and to prevent him from being again overcome by these acute feelings under which he laboured, he had reduced what he wished to say to writing. With the leave of the court he would now read what he had written. In it his lordship stated, that it was his misfortune to be connected with those who had been proved to be guilty, which made him appear equally guilty with the other defendants. Mr. D. B. he had met in public company—he had no intimacy with him—he had not even seen him many times. Mr. Butt had been engaged in

stock transactions for him, but in no other way than what was perfectly regular and usual. Along with the rest, he however had been returned as guilty; yet he only wanted the opportunity to prove himself innocent. Mr. Butt and his relative, Mr. C. Johnstone, had both repeatedly said that they were innocent; and he now asserted what he had before said, that he was totally ignorant of such a plot being in contemplation. But he could not bear to exist under such a load of dishonour as had been heaped upon him—and he could not value life without character. His life had been too often exposed in the cause of his country to make him set too great a value on it; and he only continued it in the hope of still being able to remove the disgrace that was attempted to be attached to his character. [His lordship laid particular emphasis on this part of his address, but he was also much affected.]—As to the circumstance of De Berenger proceeding to his lordship's house, might it not be De B.'s policy to facilitate his escape: for could it be supposed, if he (Lord C.) had been concerned in the conspiracy that he would have acted so extravagantly? As to the dress, could not De B. easily take off his red coat while in the coach, and put on the green one which he certainly had on when his lordship saw him. What was to hinder him from having such a coat with him in the little portmanteau which he carried; and if he ever had a red coat on, he must have changed it in the coach, or avoided calling on his lordship, for he would not have dared to appear before his lordship in any such uniform as he was represented to have worn. His lordship had been accused of committing moral perjury without exposing himself to the penalties of the law, in swearing to the affidavit before the magistrate; but his lordship's oath was to that affidavit; and in his estimation an oath was an oath—his mind knew no distinction. Much had been said about the star, &c. worn by De B. but where was the proof that his lordship had seen them? He never had seen them, nor De B. in a red coat—the coat was green—this he asserted on his honour, which he deemed as binding as an oath could be. The affidavit which had been so much commented upon, he made the instant rumours circulated to his discredit, being conscious of the integrity of his own conduct; but if he had really been guilty, whatever extravagant things he might have done, could any human being suppose that he would have done any thing half so extravagant? He had been much persecuted, and prejudices against him had been most industriously circulated, but

he most unfeignedly despised them. His life had been exposed often, but, thank God! this was the first time that it had been called on to defend it against dishonour! He could easily have removed himself out of the way of what the world called punishment; but he had ever despised such an idea. Sooner or later he felt convinced that he should prove his innocence to the world, but the opportunity of doing it would come best from their lordships, by allowing him a new trial.

An affidavit from Lord C. was then read, in which he re-swore to his former statements respecting the dress of De B. and the conversation with him; and he also solemnly deposed to his innocence.

Some affidavits were then put in from Lord C.'s servants, but as one of them had been examined, and as the others might have been examined, the court held that they could not be received.

Mr. BUTT next addressed the court, saying that if he could have a new trial he should be able to prove his innocence. He asked for no mitigation of punishment, for his conscience acquitted him of the offence with which he had been charged.

An affidavit from Mr. De Berenger set forth, that he had rendered his country great services, and that he lost the whole of his paternal fortune, amounting to 33,000*l.* in consequence of his father's adherence to the House of Brunswick in the progress of the American Revolution, for which he had never received any compensation.

There was no affidavit from Sandom, Holloway, or Lyte.

Mr. PARK and Mr. RICHARDSON severally addressed the court for Mr. De B.; and Mr. Sergeant Pell for the three latter defendants, contending that there was but little proof of their having had any concern in the plot.

Mr. GURNEY replied on the part of the prosecution. The spectacle on the floor of that court was indeed lamentable; but it would teach men that conspiracy and crime, like misery, made men acquainted with strange companions. There certainly was some difference between the conduct of the parties; for Holloway, Sandom, and Lyte, had not aggravated their offence in the way in which the other defendants had done. Mr. De B. appeared to be the hired agent of Lord C.

and C. Johnstone; and having received the wages of his infamy, he had endeavoured to get out of the country, not only to screen himself, but to hide the guilt of others. At the trial, Mr. Sergeant Best dwelt on the services which Lord Cochrane had rendered his king and country; but never let it be forgotten that Lord C. did not pass unrewarded, both by his sovereign and the nation which he had served. His sovereign had invested him with an order which ennobled and adorned even nobility, and his grateful country had chosen him to the highest of honours, to be one of their representatives in parliament. But how lamentable a return had he made for all these distinguished marks of his sovereign's favour, and of his country's gratitude! Throughout the whole business, so far as his lordship was concerned, there was no proof of its having resulted from the infirmities of a noble mind, from the impulses of strong and youthful, but generous passions—or from the excess of any powerful and honourable, but misdirected feelings. Nothing appeared but cold and calculating fraud.

Mr. BOLLAND and Mr. ADOLPHUS followed on the same side.

After the court had consulted for some time, Lord ELLENBOROUGH said, "Let all the defendants stand committed, and be brought up to receive the sentence of the court to-morrow morning, Mr. De B. of course returning to Newgate."

June 21:

This morning, at ten o'clock, Lord COCHRANE, together with Messrs. BUTT, DE BERENGER, HOLLOWAY, LYTE, and SANDOM appeared in court, pursuant to an order of their lordships made yesterday; and the clerk having called over their several names,

Mr. JUSTICE LE BLANC addressed them, and observed, that they having been convicted of the crime of conspiracy, on evidence of the most unequivocal description, and after a patient and impartial trial, there remained now a duty for him to perform, and which the law ordained him to execute, namely, that of pronouncing the judgment of that court upon each and all of them for the offence of which they had been so found guilty.

His lordship said, that the particular parts of the aggregate accusation urged against the offenders were of that nature and kind, that, from the testimony of the various witnesses called forth on behalf of the prosecution, and, indeed, from the kind of defence set up by all the conspirators themselves, it was as clear as demonstration could make it, that they were all connected and united in the same extensive and wicked plot; and that although it was ramified into distinct branches, it had only one object in view, and was directed to one and the same end, namely, that of putting money in the pockets of a few, at the expense of many, by the foulest and wickedest means.

The immediate means adopted were those of spreading false news, thereby to raise the price of the public funds, and thence to enable the principal conspirators to enrich themselves, and their meaner agents to be benefited and be rewarded for the respective parts which they had taken in the nefarious transaction. The plan was concerted with deep design; it was conceived upon a scale of extended magnitude, unequalled in the history of crime, and intended to gorge even avarice itself, though it happily failed in its execution; but that, said his lordship, did not make the crime the less. It was proved, incontestably, that Berenger, on Saturday, the 19th of February, had purchased the dress of a foreign officer, and appendages of foreign decorations of honour; and in the same dress he was seen at the hour of one o'clock on the morning of the 21st of February, at Dover, thence he was traced to London, and into the house of Lord Cochrane, where he changed his attire and put on plain clothes, in the presence of Lord Cochrane; and it was also in proof that at Dover he assumed the name of Colonel Du Bourgh, and that there, as well as on the way to London, he propagated the false news mentioned in the indictment. It was further in proof, that whilst at Dover he wrote a letter to Admiral Foley, at Deal, imposing upon him, and attempting to make him an instrument in propagating by the telegraph to town the false news which he had spread at Dover; and it was finally in proof, that he subsequently absconded, and that not only the monies and bank notes which he paid at Dover, and on his way to town, were bank notes and monies which had passed through the hands of Lord Cochrane, Butt, and Cochrane Johstone, but that also the bank notes found in his possession, when he was apprehended in Scotland, endeavouring to

escape out of the country, were also bank notes which had been received by him from the same persons.

With respect to the other defendants, C. Johnstone, Lord Cochrane, and Butt, it was also in evidence that they were holders of stock in the public funds to an immense amount, some of which they had purchased in so late as the Saturday before the fraud was put into effect; and the false news having reached the Stock Exchange at an early part of the morning, it had the effect of raising the funds, of which these three persons availing themselves, they immediately sold the stock which they had on hand, thereby not only saving themselves from considerable loss which must have otherwise occurred to them on account of the real price of the funds just at that period previously, but also put a considerable sum into their respective pockets by this contrivance. His lordship then adverted to the minor part of the conspiracy; the under plot carried on by Sandom, Holloway, Lyte, and M'Rae, at Northfleet, and then to London, spreading the same species of false intelligence that De Berenger had done, and tracing them from Northfleet to Dartford and to London, and to the Marshgate, Lambeth, exactly where De Berenger had stopped likewise. From all which the learned judge in his comments declared, that evidence, manifest evidence, of plot, design, and craft, was brought home to every one of the defendants; all of whom, he clearly showed, from his observations on the evidence given, were united in the same conspiracy, three of them as agents; the latter of whom, from their desperate and embarrassed affairs, were fitly chosen as instruments to put so base a contrivance into execution.

The learned judge then turning to Lord Cochrane, particularly addressed himself to him; and observed, that it was with pain he noticed, among the defendants, a person whose high rank, education, attainments, birth, acquirements, and the honourable distinctions which had been bestowed upon him by his sovereign and by a grateful people for honourable and heroic deeds performed, should be linked with a banditti of depredators of the worst and foulest kind. But inasmuch as he did possess those distinctions and this elevation in society, so much the more was he criminal in participating with those guilty offenders in a crime, which, in its progress, was denoted by every unseemly characteristic; it was tainted with meanness, mendicity, and avarice, and with three of the adventurers, had not even the palliative of poverty as an apology

for the sin; respecting them, therefore, the court, in its equal distribution of justice, was bound to show to the world, that as they sought to gratify their passion of avarice by conspiracy, and as conspiracy was held in the eye of the law of an infamous nature, so they must award such a punishment as would convey infamy with it. In some offenders it frequently happens, when brought up for judgment they have the plea of a sudden gust of passion to move them to the commission of crime, but here no such matter. A plot, long devised, much ramified, including many actors, put into effect with unusual cunning and artifice, marked from its commencement, through the progress, and to its peroration, with systematic fraud, is the picture only which can be given of it. As a judgment, therefore, for a conspiracy so dangerous and so extensive, he was directed to pronounce the following

JUDGMENT.

That you, Sir Thomas Cochrane, commonly called Lord Cochrane, and you Richard Gathorne Butt, do pay to the king A FINE OF ONE THOUSAND POUNDS EACH : and that you John Peter Holloway, do pay to the king A FINE OF FIVE HUNDRED POUNDS.

That you Sir Thomas Cochrane, R. G. Butt, John Peter Holloway, Ralph Sandom, Henry Lyte, and C. R. De Berenger, be severally IMPRISONED TWELVE CALENDAR MONTHS, in the custody of the marshal of the Marshalsea; and that you Sir Thomas Cochrane, you R. G. Butt, and J. P. Holloway, be further imprisoned till your respective fines be paid.

And further, that during the period of imprisonment mentioned, you Sir Thomas Cochrane, you R. G. Butt, and you C. R. De Berenger, DO STAND ONE HOUR IN AND UPON THE PILLORY before the Royal Exchange.

The several prisoners were immediately conveyed away by a strong escort of officers of justice to the prison of the King's Bench.

The sentence excited very considerable surprise, which was expressed by a sudden exclamation in the court. Lord Cochrane was deeply affected, and is represented, when passing through the hall, as more resembling a corpse than a living being. He met with great commiseration from the crowd.

PROCEDURE

IN

THE HOUSE OF COMMONS,

RESPECTING

LORD COCHRANE.

A few days after the sentence of the court had been passed, a Mr. Broadhead, the member for Wareham, gave notice of his intention to move the expulsion of his lordship from the house, coupling him at the same time with his uncle, Mr. C. Johnstone, who had left the country before judgment had passed in the cause.

Lord Cochrane, in a letter to the speaker, informed the house of his intention to defend himself on the day of discussion, which, after being announced for the 1st of July, was, at the request of his lordship, finally fixed for the following Tuesday.

On that day, accordingly, it was intimated that Lord Cochrane was in attendance. Previously, however, to the discussion of the chief business, the following petition from Mr. M'Rae, one of the parties in the hoax, was presented by Mr. Moore:

To the Honourable the House of Commons of the United Kingdom of Great Britain and Ireland, in Parliament assembled, The Humble Petition of Alexander M'Rae, lately convicted, with others, of a conspiracy and misdemeanour ;

MOST RESPECTFULLY SHOWETH,

That, penetrated with contrition and grief, your humble petitioner approaches this hon. house, truly conscious of the disgrace with which a recent sentence has overwhelmed him, but which cannot diminish his confidence that such odium will not prevent that attention which marks the conduct of the representatives of this empire, especially when a petitioner most respectfully declares, that great as his fault

has been, his present and sole object is, to prove his repentance, and which he conceives he cannot do more effectually, than by an artless and undisguised acknowledgment, and minute confession, of every thing which relates to that transaction; which has involved him in his present unhappy situation.

That your petitioner is fully competent to unveil the whole mystery; that he is anxious to do so on grounds of public justice, as well as private feelings, in order to rescue from false imputations an illustrious innocent individual, a member of your honourable house, who although unhappily included with others in a verdict for a conspiracy, your petitioner will make manifest to have been most unjustly so included and condemned, of the participation in a plot to which he was in every stage a most perfect stranger. That your petitioner solemnly pledges himself to prove this declaration most fully, by the testimony of many witnesses; and in support of this allegation he begs to state, that on a former occasion he offered a similar disclosure to the Stock Exchange committee, for which their agent offered him a pecuniary consideration; but on the committee finding that the information he had to give went to exculpate Lord Cochrane, and to implicate a different combination of men amongst themselves, they rejected your petitioner's information, and included him in the indictment, in order, as he verily believes, to prevent him from giving his evidence on the trial; and, conscious of their iniquity towards your petitioner, they paid all his expenses for his appearing and pleading, and consented to waive his entering into the usual recognizances.

That, in order to enable your petitioner to accomplish this purpose by examination at the bar of your honourable house, or in any other way you may think proper, he throws himself on the generosity of your honourable house, to afford him such protection as is usually extended to persons in his situation; and should your petitioner appear to your honourable house to fail in establishing the allegations contained in this petition, he freely delivers himself up to receive such sentence as the law may award against him on his late conviction, and with such increased penalty as an attempt to impose on your honourable house would naturally subject him to. And your petitioner humbly prays to be heard accordingly.

ALEXANDER M'RAE.

London, July 4, 1814.

Mr. MOORE then moved, that this petition be laid on the table, which was opposed by Mr. B. Bathurst, on the ground that if it were received, a precedent would thus be laid for appeals from every court of justice in the country. The petition was withdrawn.

Mr. BROADHEAD then rose and moved that the record of the noble lord's conviction before the chief justice of the court of King's Bench be read; it was read accordingly.

Mr. BROADHEAD again rose, and said, that the motives which actuated him in this business, was a sense of his duty as a member of parliament, and not any feeling of personal hostility to the noble lord, or to the other honourable member; but he thought, that a man, who had been convicted of so disgraceful a crime, and sentenced to an ignominious punishment, was not a fit person to sit in that house as a member. He did not wish to expatiate upon the nature of the offence, or the circumstances in evidence upon which the conviction was founded; the record of that conviction just read was sufficient to ground the motion he meant to submit for the consideration of the house; and he moved that Lord Cochrane be expelled.

The Speaker then called on Lord Cochrane to state what he had to offer as a reason why he should not agree to the motion for his expulsion.

DEFENCE OF LORD COCHRANE.

MR. SPEAKER, The circumstances under which I appear before you and the house this day, entitle me to, at least, a patient hearing. The unfortunate man, who, in the time of Cardinal Richelieu, was condemned to be racked and burnt on the charge of practising magic, when protesting his innocence and exposing the villany of his enemies, while the fire was preparing before his eyes, was, to prevent his being heard by the people, struck upon the mouth with a crucifix borne in the hand of a monk. This horrible judicial murder shocked all France and all Europe; but, of all the circumstances attending it, the fabrication of evidence, the flagrant partiality of the judges, the cruelty of the sentence, the notorious falsehood of the charge, nothing produced so

deep a sense of indignation as the act of this execrable monk, who, not content with the torture and the death of the victim—not content with the destruction of his body, was resolved to pursue him even beyond the grave. Therefore, Sir, though what I have now seen of * * * * *
 * * * * * convinces me that cowardly malignity is not the exclusive possession of monks. I trust that on this day no means will be resorted to to stifle my voice, or to prevent the public at large from hearing all that I have to say in my defence.

I am not here, Sir, to bespeak compassion, or to pave the way to pardon. Both ideas are alike repugnant to my feelings. That the public in general have felt indignation at the sentence that has been passed upon me, does honour to their hearts, and tends still to make my country dear to me, in spite of what I have suffered from the malignity of persons in power. But, Sir, I am not here to complain of the hardships of my case, or about the cruelty of judges, who, for an act which was never till now either known or thought to be a legal offence, have laid upon me a sentence more heavy than they have ever yet laid upon persons clearly convicted of the most horrid of crimes—crimes of which nature herself cries aloud against the commission. If, therefore, it was my object to complain of the cruelty of my judges, I should bid the public look into the calendar, and see if they could find a punishment like that inflicted on me, inflicted by these same judges on any one of those unnatural wretches. It is not, however, my business to complain of the cruelty of this sentence.

* * * * *

The house, Sir, will easily perceive, and every honourable man will, I am sure, participate in my feelings, that the fine, the imprisonment, the pillory—even that pillory to which I am condemned—are nothing, that they weigh not as a feather when put in the balance against my desire to show that I have been unjustly condemned. Therefore, Sir, I trust, that the house will give a fair and impartial hearing to what I have to say respecting the conduct of my enemies, to expose which conduct is a duty which I owe to my constituents and my country, not less than to myself.

In the first place, Sir, I here, in the presence of this house, and with the eyes of the country fixed upon me,

most solemnly declare, that I am wholly innocent of the crime which has been laid to my charge, and for which I have been condemned to the most infamous of punishments. Having repeated this assertion of my innocence, I next proceed to complain of the means that have been made use of to effect my destruction. And first, Sir, was it ever before known in this, or in any other country, that the prosecutors should form a sort of court of his own erection, call witnesses before it of his own choosing; and, under offers of great rewards, take minutes of the evidence of such witnesses, publish those minutes to the world, under the forms and appearance of a judicial proceeding? Was it ever before known, that steps like these were taken previous to an indictment, previous to the bringing of an intended victim into a court of justice? Was it ever before known that so regular, so systematic a scheme for exciting suspicion against a man, of implanting an immovable prejudice against him in the minds of the whole nation, previous to the preferring a bill of indictment, in order that the grand jury, be it composed of whomsoever it might, should be predisposed to find the bill? I ask you, Sir, and I ask the house, whether it was ever before known, that means like these were resorted to, previous to a man's being legally accused? But, Sir, what must the world think, when they see some of those to whom the welfare and the honour of the nation are committed covertly coöperating with a committee of the Stock Exchange—becoming their associates in so nefarious a scheme? Nevertheless, Sir, this fact is now notorious to the whole world. I must confess that I was not prepared to believe the thing possible; though I was aware, indeed, that I had to expect from some of those in power whom I had in vain endeavoured to bring to justice, every thing that malignity could suggest and cunning perpetrate; though I was aware my endeavours (though humble) to expose the sources of corruption through the Pension List, and the Prize Courts, had raised against me many enemies; though I was aware of the unquenchable thirst for revenge which I had excited in the breast of many corrupt and hypocritical individuals; and especially, though I was aware of the offence which I had given to the grasping and never-pardoning phalanx of the law, by exhibiting to the world their frauds upon my ill-treated brethren of the navy. But, notwithstanding all this, I was not prepared to see * *

* * actually coöperating with the Stock Exchange in the shameful work of plotting my ruin.

So much, Sir, for the steps taken previous to the indictment. The conspiracy against me being thus matured; the public mind being completely prejudiced, and that prejudice kept alive by a series of falsehoods and misrepresentations, the legal proceedings began. The bill of indictment was preferred. And here, Sir, must not the wicked design of the conspirators be manifest to all the world!—There were some persons indicted who had confessed their share in the imposition. These persons had declared to my prosecutors, that they knew me not: that they had never seen me; that they never had any connexion with me; and yet, we were all put into one indictment, for the manifest purpose of so confounding innocence with guilt, as to secure a chance, at least, of my conviction, even at the hands of a jury who might be disposed to act just.

* * * * *

Care, however, was taken, Sir, that the success of this base conspiracy should not be exposed to the chances of failure from the jury not being of the right stamp. The indictment, if left to its fair, regular course, would have been tried at the sessions-house at the Old Bailey, before a jury impartially taken. In that case, it would have been what is called a *common jury*; that is to say, a jury whose names are *taken promiscuously* out of a box containing the names of the *whole of the jurors*, summoned for the trial of *all the cases* brought before the court during the sessions. I was ready to meet the accusation before such a jury. I took no steps to put off the trial for a day. The indictment was removed from the court before which it regularly came, into a court where the prosecutors knew that they could cause me to be tried by a special jury. * * * * *
Dr. Johnson, in reference to the happier times which England had seen, has these lines.—

“When sterling freedom circled Alfred’s throne,
“And *spies* and *special juries* were unknown.”

When, Sir, I first read these lines, I was wholly ignorant of what special jury meant. I now understand the thing but too well; and I am not without hopes that that which

has now been practised with the aid of a special jury, may, in the end, be the means of totally extirpating that intolerable evil. A special jury is composed of twelve persons taken out of forty-eight persons, the whole of which forty-eight persons are selected by the master of the Crown-office. It is notorious, Sir, that these special jurors follow the business as a trade; that they are paid a guinea each for every trial; that they sometimes gain eight or ten guineas a day; that it is deemed a favour to be put upon the special jury list; that persons pay money to get upon that list; that if they displease the judge, care is taken to prevent them from serving again; or, in other words, to cut them off, or turn them out, from a profitable employment. And is it this, Sir, which we call a jury of our country? Have I been tried by a jury of my country? No, Sir.

* * * * * The institution of special juries, an institution unknown till times of modern date, and repugnant to the laws of England, had its rise in a pretence that matters of technical difficulty a common jury might not be competent to understand; as in cases of insurance, shipping of goods, and the like. But, what was there in this case that a common jury, composed of tradesmen in the City of London, would not have understood? A common jury would surely have been as competent to decide upon my case as upon the cases of hundreds who are condemned to death upon the decision of such a jury in that same court, where, to do me justice, my case should have been tried. The house are told, that it is sufficient to have read the verdict against me. By what principle of justice, or of reason, the house is to proceed to inflict upon me a new punishment, without themselves hearing and examining the evidence, I will not here attempt to inquire.

* * * * *

If, Sir, the accusation against me had not brought the whole conduct of my life under animadversion, I should not think it necessary to account for the manner in which my time has been employed since I was actively engaged in my professional duties. The interval has not been idly spent, nor without a view to the interests of my country. At an expense of nearly two thousand pounds, for which I neither sought nor thought of remuneration, I examined the

situations, and procured plans of various important ports and places in the Mediterranean. I meditated and matured plans for the more effectual prosecution of the war. They were approved, pronounced practicable, and considered infallible, by some of the most distinguished officers now living. I offered them to successive administrations, and I also offered my services to put them in execution. Subsequently, my attention was chiefly directed to the prosecution and perfection of an invention of considerable public convenience and utility; and on the very day of the offence so unexpectedly laid to my charge, I was solely occupied in furthering this, at least inoffensive object, without the slightest idea of the mischief which that day was to bring forth.

I had been appointed to the command of his majesty's ship the *Tonnant*, and the loss of that command, after expending more than a thousand pounds in fitting for sea, is one of the many misfortunes in which this groundless accusation has involved me. To my duty on board that ship I returned on the 1st of March; and it was not till the 8th day of that month that I found that my name was connected with the fraud, from the following paragraph in the public prints of the 7th:

"We are glad to hear that the committee of the Stock Exchange have made considerable progress in discovering the authors of the late nefarious fraud: and that they have ascertained that the pretended Colonel De Bourgh *went to the house of a gentleman who has a large stock-jobbing account*. Though the committee have posted the following notice, yet we should hope that the gentlemen named therein were no parties to the deception practised. They cannot, however, take too early an opportunity of clearing themselves from all suspicion of having participated in the transaction.

"Stock Exchange committee-room, March 4.

"It is particularly requested, that all those Members of the Stock Exchange who transacted business, either directly or indirectly, for any of the persons under-mentioned, on Monday, the 21st of February last, will favour the committee with an interview. The Hon. Cochrane Johnstone, Mr. G. R. Butt, Lord Cochrane, Mr. Holloway, M. Sandom, Mr. M'Rae."

On reading this paragraph, I lost no time, (whatever may

have been insinuated to the contrary) in applying for leave of absence. I gave the necessary orders about the ship, and waited on Admiral Surridge to obtain his permission to proceed to town. He informed me that he had sent off admiralty-leave to the ship, and a letter from Lord Melville; neither of which were forwarded to me for a considerable time after, and Lord Melville's letter, which I hold in my hand, remains still unopened. I mention this merely to show, that I was not induced to return to town, for the purpose of clearing my character, by any communication from the admiralty. On my return to town, I did what I think every innocent man would have done. I made oath to a true statement of all that I knew of the circumstances on which the accusation against me was founded. It was said by the counsel for the prosecution, that he should have thought that a nobleman in my situation would have pledged his word and honour. If I understood the difference between the sanctity of such a pledge and that of an oath, I might be able to reply to his observation; but I do not:—but this I understand, that if I had so pledged my word and honour, it would not have escaped that person's discernment that I did not dare to make oath to the truth of my statement.

The report of the Stock Exchange Committee was not published till two days after my affidavit, and the description of the dress of the pretended messenger, as given by them in their hand-bill of the 7th, to wit, a *brown* great-coat and a *red* under coat, being wholly different from that in which De Berenger appeared before me, which was a *gray* great coat and a *green* uniform, I firmly believe that he was not the same person; and so impressed, I published my affidavit of the 11th; and shortly after the affidavits of my servants, as to the dress in which De Berenger appeared. These affidavits I hold in my hand, and, if it is the pleasure of the house, I will read them.

His lordship, not being required to read the affidavits, proceeded to state that his servants, Isaac Davis, Thomas Dewman, and Mary Turpin, made oath, that the upper coat was *gray*, and the collar and all that they saw of the under coat was *green*. My affidavit of the 11th of March was most unmercifully handled by the counsel for the prosecution, and also by the chief justice. They insisted I *must have known* when I received the note, that it came from De

Berenger. My statement was, that while I was superintending work at Mr. King's manufactory, I received a note, *but did not* know it came from De Berenger, because the name was written so close to the bottom that I could not read it. It was triumphantly remarked, that this note was not forthcoming. It was mentioned as a suspicious circumstance, that I could not produce this note. The fact is, that I tore it, and threw it down. I had not the smallest idea that it was worth preserving—a note merely soliciting an interview which I was immediately going to grant. What could it contain that the writer himself could not inform me of?—For what purpose should I preserve it? If I had preserved it—if I had brought it forth—what would have been said? Why, Sir, that there could not be a more suspicious circumstance—that I could never have been so careful of an apparently insignificant scrap of paper, if I had not foreseen that it might one day be called in question; or otherwise that it had been *subsequently fabricated*.

I have to lament that I was not more particular as to the important fact of my going away from the lamp-maker's, under the impression that I was about to meet an officer with distressing intelligence relative to my brother the Hon. Major Cochrane. I can now only supply the deficiency, by offering the same statement and the same evidence which I tendered to the court of King's Bench when I made my second application for a new trial. I then observed, "that I was in apprehensions of fatal news respecting my brother, then in France, from whom I had received a letter not three days before, with the intelligence of his being dangerously ill; and I now tender you his affidavit, with the surgeon's certificate, dated the 12th of February, which he brought home with him; and, therefore, on receiving the note from De Berenger, whose name I was unable to decipher, and as that note announced that the writer, who I learnt from my servant, had the appearance of an officer in the navy, was desirous of seeing me, I hastened to learn intelligence so anxiously expected; nor had I the least doubt that it related to my brother. When, however, I found that the person was De Berenger, and that he had only to speak of his own private affairs, the apparent distress he was in, and the relief it gave my mind to know that he was not the bearer of the news I dreaded, prevented me from feeling that displeasure which I might otherwise have felt at the liberty

he had taken, or the interruption it had occasioned. Comments have been made on my saying so little to the servant who brought me that note; but the fact is, I did ask him several questions, as appears by his affidavit. That I did not learn the name of the writer from the note itself, I have truly accounted for, by its being written so close to the bottom of the paper that I could not read it. This assertion is said to be contradicted by the circumstance of the writer having found room to add a postscript, as if there was only one side to the paper. Of the postscript I have no recollection, but it might have been written even opposite the signature. That I did not collect from the handwriting that it was addressed to me by De Berenger, is nothing extraordinary; my acquaintance with that person was extremely slight; and till that day I had never received more than one or two notes from him, which related to a drawing of a lamp.—I was too deeply impressed with this idea, that the note was addressed to me by an officer who had come with intelligence of my brother, to apprehend that it was written by De Berenger, from whom I expected no communication, and with whose handwriting I was not familiar.—All that I could afterwards recollect of the note, more than what is stated in my affidavit, is, that he had something to communicate which would affect my feeling mind, or words to that effect, which confirmed my apprehensions that the writer was the messenger of fatal news of my brother.

My brother's affidavit is as follows:

“The Hon. William Erskine Cochrane, major in the 13th regiment of dragoons, now residing in Portman-square, in the county of Middlesex, on his oath, saith, that he was seized with a violent and alarming illness on the 1st of January, 1814, at Cambo, in the south of France, and that this deponent remained in a state of dangerous illness until the 18th of the following month; that early in February last he wrote to his brother, Lord Cochrane, to acquaint his lordship with this deponent's situation, as deponent had then very little hope of recovery, and telling him that he had received a notification that he would be ordered to England, where he should proceed, if ever able to undertake the journey. And this deponent further saith that the annexed certificate was given to him for the purpose of being laid officially before a board of medical officers at St. Jean de Luz,

by the surgeon of this deponent's regiment, and is in the said surgeon's handwriting."

From the certificate of the surgeon, dated the 12th of February, I think it material to read the following extracts:

"Major Cochrane was seized with the usual symptoms of fever on the 1st of January, which were continued for the first three days: then the remittent character developed itself; the evening paroxysm was severe every day, and he was all through much worse on the third day than on the two preceding days. On the 23d, he had a crisis, and went on very well till the 1st of February, when he suffered a relapse, attended with rather alarming symptoms. There was great determination to the head, and a tendency to coma. On the morning of the 7th he had a second relapse. I hope the change of air and objects will serve him."

The affidavit of my brother, as well as the certificate of the surgeon, were treated as fabrications; and with respect to my brother's letter, the judge would not believe that I had received it, unless I could produce it, and show him the post mark. It is known to all my friends, that I seldom preserve such letters as are not likely to be of future importance—but it was also known to many of my friends, that I had received such a letter. And since my brother Colonel Cochrane's return from Ireland, I have learnt that he did actually receive that letter enclosed from me; and he is ready to prove it; and my other brother, Major Cochrane, has sworn to the fact of having sent it. The learned judge would not believe there was time for the arrival of such letter between the 12th and 18th of February; but I did not speak to the date of the letter. I only said, that I received it on the 18th: and my brother did not swear that it was written on the 12th, but early in February. Now I expressly stated, that my brother brought the certificate home with him. It was granted to him on the 12th of February by the surgeon of his regiment, for the purpose of being laid before a board of medical officers to show the necessity of his return to England, where he arrived some time in March, and now resides in Portman-square in a very precarious state of health. The authenticity of the certificate is unquestionable; and it is more important, since it was not obtained for the purpose of proving the truth of my statement, but is the original certificate authorizing his return to England on account of ill health, and bears date

nine days prior to the 21st of February. It includes a period of six weeks, namely, from the 1st of January; and yet the learned judge argued against the probability, nay, stated that it was almost impossible, that I should have heard of his illness on the 17th of February!

When it is considered that Lord Ellenborough admitted that evidence of the illness of my brother would add great probability to my statement, that on hearing of the arrival of an officer from the army, I went home with the expectation of hearing distressing intelligence respecting him, and that such evidence would, indeed, be important, is it not strange that he should have rejected such evidence without examination, or with so little examination as to confound both dates and mode of conveyance?

With respect to my account of the conversation which passed between De Berenger and myself, I submit to the house, that it is not only true, but perfectly probable. It was not necessary that I should know the business which De Berenger had been transacting, in order to believe that he had reasons for wishing to quit the kingdom. His wish to go to America, and Sir Alexander Cochrane's application in his behalf, were known to me, and clearly proved on the trial; and the prosecutor's counsel admitted, that De Berenger was in the Rules of the King's Bench, and so involved in debt, that he would rather reside in any country than this. Within these few days, a letter from De Berenger to his solicitor, Mr. Gabriel Tahourdin, has come into my possession, which clearly proves the distressed state of his mind, and his anxiety to get out of the country. The letter is dated *the 17th of February*, four days previous to the fraud of the 21st. The letter is long, and, to me perfectly unintelligible: the following passage shows the perturbed state of his mind:

"I cannot refrain from pressing you, as my solicitor, and as a confidential friend, to take immediately those measures which alone can tranquillize my mind, and enable me thereby to meet the numerous sufferings I am doomed to bear. Something must be done, for what is so harassing as doubt about future fate? Mine is all gloom; and self-preservation, that powerful argument, but which I have so long neglected, and which every body, more or less, seems to use, requires my immediate and unalterable decision. I have refused what most people would call the safe side of the question.

What are my prospects in consequence? that I shall have enemies in abundance—that I shall, in either result, have lost all chance of encouragement, perhaps in *all Europe*, and that I shall be tossed about, God knows how and where, and at an age which claims rest: and horrible as the picture is, it is even the best of the prospects that await me.”

After the apprehension of Mr. De Berenger, I did, by the advice of Mr. Johnstone, address to him a letter through the office of Lord Sidmouth, calling upon him to state to the public his reason for coming to my house on the 21st of February—and he answered that nothing could exceed the pain he felt when he perceived how cruelly, how unfairly, his unfortunate visit of the 21st of February was interpreted, “which, with its object, was correctly detailed in my affidavit.” I hold his original letter in my hand.

Relying upon the difference of the dress in which De Berenger appeared before me from that described by the Stock Exchange committee, and on the assurance of Mr. Johnstone that De B. had informed him, that he could unequivocally prove an *alibi* by at least a dozen credible witnesses, and believing that, at all events, my own innocence would prove my protection; I felt so perfectly secure as to the issue of the trial, that I gave no instructions to counsel, attended no consultation, and never even read my own brief, into which a dangerous error was introduced; but leaving the whole business entirely in the hands of my solicitor, I retired to my house in the country, and did not return till two days previous to the trial.

While in the country I received a letter from my solicitor, informing me that at a consultation, it had been resolved to defend my case jointly with that of Mr. Butt, and that it was not determined whether it might not also be advisable to unite it with that of Mr. Johnstone. I had ordered that my case should be defended separately, and Messrs. Topping and Scarlett were engaged as my counsel. To the above communication I returned the following answer:

“*Holly-Hill, Titchfield, May 29, 1814.*”

“The counsel are better able to judge than I am, as to the necessity of mixing Mr. Butt’s case with mine; but I will not consent to any further union.”

Notwithstanding this, my case was defended conjointly; and it deserves particular attention, that the able counsel who pleaded my cause was intended to defend Mr. Johnstone only, and that the counsel whom I did employ had no opportunity of opening their lips. The unavailing expression of my dissent to a union of cases, was almost the only step taken by me in my own behalf, in the whole course of the proceedings prior to my return to town: for, in addition to the perfect consciousness of my innocence, I cannot help remarking that Mr. Johnstone, on all occasions, was anxious to relieve me from the trouble of attending to my own interests in this matter; and in a letter, which he wrote to me a few day previous to the trial, he entreated me to make myself perfectly easy as to the issue; and informed me he had seen De Berenger's brief, by which it appeared, that he would fully establish an *alibi*. This letter, pursuant to my general practice, well known to my friends, I believe I have destroyed; but the receipt and purport of it can be proved on oath by a visiter then at my house.

On my return to town, immediately before the trial, the brief of Mr. De Berenger was shown to me by Mr. Johnstone; and the case, as therein stated, appeared to me so perfectly clear, that I solemnly assure the house, that I then thought it impossible he could be the person who represented Du Bourgh. That I had no concern whatever in the *alibi* set up by Mr. De Berenger, will sufficiently appear from the following letter from my solicitors:

“ *Lincoln's-Inn Fields, 1st July, 1814.*

“ My lord—We beg to acknowledge the receipt of your lordship's letter of yesterday's date, and to acquaint you, in answer, that we were certainly employed exclusively for your lordship in the late trial, and not for any other of the defendants; and we also beg leave to state most explicitly, that we never received from your lordship, or any other person whatever, any instructions in respect to the *alibi* attempted to be proved by Mr. De Berenger, and consequently did not, nor could give any directions to counsel in respect to that *alibi*; nor had we ever any intercourse or communication whatever with the witnesses by whom it was to be established.

“ We have the honour to be, my lord, &c.

“ FARRER & Co.”

My description of the dress in which De Berenger appeared before me at my house on the 21st of February, has excited much animadversion. When I swore that he wore a green coat, the counsel for the prosecution declared that I had incurred the moral guilt of perjury without subjecting myself to the legal penalty. When I came into court and repeated my assertion upon oath, under all the risks of the law, and tendered the affidavits of others who saw him, as I did, in his green coat at my house, the same counsel impudently repeated the foul and false accusation. I also affirmed, upon my honour, in the court of King's Bench, and I do affirm upon my honour in this house, that I only saw him in a green coat.

I have already stated that an error of the most dangerous nature was introduced into the brief. In that brief the coat of De Berenger is described to have been a *red* one with a green collar; and my counsel, in consequence, admitted that to be *red* which was sworn to be green. My attention was not called to this error, which has been so injurious; and Mr. Sergeant Best, in the course of my defence, marked the contradiction between my affidavit and what his brief told him; and he gave me credit for an oversight in consequence thereof, but refused to examine my servants, then ready in attendance. Early on the morning of the second day of the trial, being informed, to my surprise, of the mode of defence which had been resorted to, I again sent my servants to Guildhall with a note to my solicitor, of which the following is an extract:

“ June 9, 1814.

“ DEAR SIR—I have sent my servants, who, I submit, ought to be examined, in order to prove the appearance of Berenger. This seems necessary to free me from the internal uneasiness which I should ever feel were the investigation to terminate otherwise.”

Still, Sir, it was not deemed proper to examine my servants; and to the error which crept into the brief, and the consequent misapprehension of my counsel, I must in some measure attribute the unfavourable result of the trial.



About half past seven o'clock on the evening of the last day of the trial, a clerk, on the part of my solicitors, called on me; and the following is a memorandum made by him of the conversation that took place between us in consequence:

"I told Lord Cochrane I had just come out of court to prepare him for the worst result, *as the judge was summing up against him very decidedly*, and I delivered him a memorandum of Mr. Brougham, recommending his lordship's being made acquainted with the result to be apprehended. He inquired much about the trial, but particularly what witnesses had been called on his side. I told him Dewman, and a person to prove Major Cochrane's illness, and some others. He inquired if Mary Turpin was called; I answered not. He said, Mr. Parkinson *had put his foot in his case*, or that he had *botched* his case, and it was *cruel in him*. He requested I would tell him he ought to have called her to prove De Berenger's dress; I told him his letter was submitted to counsel, and the measure approved of by them; he answered, Mr. P. should have done as I instructed him; I am to be the only sufferer if convicted. I also told him, that at the time his lordship's letter was received, his case was closed.

(Signed)

H. M. COULTHURST.

10th June, 1844.

I read this, Sir, to show to the house how anxious I was, to the very last moment, that my servants should be examined. Had they been examined, they would have sworn to the dress in which De Berenger came to my house.

And I submit, whether the testimony of all these persons ought not to preponderate over that of one. The only witness to the point of De Berenger coming to my house in a *red coat* is Crane, the hackney coachman. And under what circumstances was his evidence given? Not one of the counsel for the prosecution ventured to question him to the point; but on his cross-examination, being asked the following question, "You do not pretend to be able to recollect every person you carry in your hackney-coach every day?" he replied, "No; but this gentleman that I took from a post-chaise and four, *when he got out at Green-street, I saw that he had a red coat underneath his great coat.*" Does it not

appear from this answer, that the witness, having been disappointed in not being questioned to that point before, speaks to it now as his only chance of securing the reward of 250*l.* offered by the Stock Exchange, and which, I understand, he has laid claim to. With respect to the evidence of Crane, it is worthy of notice, that the great coat which I have sworn as *gray*, was described by him, in his examination before the Stock Exchange committee, to have been a *brown* one; but, on the trial, he meets my description, and calls it a *brown gray*: he also described De Berenger as a *red faced man*. Shilling also stated before the committee, that De Berenger had a *large red nose*, and *face rather blotched*. Now, it is well known that De Berenger bears no resemblance to such description. He is *pale*, marked with the small pox, and free from blotches.

But, Sir, I have another fact to state with regard to Crane, and I call upon the house to give it that attention which it deserves. At the moment, Sir, that this man was giving evidence to convict me of the crimes of fraud and perjury, he was suffering the sentence of the law for conduct of no common atrocity. The account of this conduct I will read to the house as it was detailed in the public papers:

“On Friday last, William Crane, the driver of the hackney coach No. 782, was summoned before the commissioners, upon a charge of cruelty to his horses. *The circumstances detailed were so shocking, as induced the commissioners to observe, they never heard a more atrocious case.*”

Now, Sir, I ask, continued his lordship, is the evidence of an old and faithful servant, who has been in one family 17 years, together with the evidence of three other witnesses of unimpeached veracity, to be outweighed in the balance by a wretch of this stamp?

On the subject of the bank notes found in De Berenger's possession, which had been exchanged for others that had once been mine, I pledge myself to prove, in the clearest and most unequivocal manner, that such notes of mine as have been called in question were given by me to Mr. Butt, for the purpose of discharging just and *bona fide* debts, namely, a debt of 200*l.* to himself for money borrowed, and the payment of my wine merchants, Messrs. Wilkinson and Cros-

thwaite, whose bill amounted to 699*l.* 11*s.*; the payment of which, through the hands of Mr. Butt, had escaped my recollection at the time of the trial. The several papers relating to the loan of 200*l.* extracted from the stockbroker's books, together with the wine merchants' affidavit respecting the whole of the transaction, I hold in my hand, and entreat of the house to examine them. In looking over the wine merchants' affidavit, I find that on the 19th of February, the very day on which the fraud is alleged to have been planned, I was "engaged in their cellars for upwards of two hours in tasting wines," to be sent on board the *Tonnant*.

Having mentioned Mr. Butt, I take this opportunity of stating that my connexion with the funds arose from a conversation with that gentleman in October last, when the progress of the allies, and the favourable aspect of affairs, induced him to recommend me to place my spare money in government securities, I told him, that I had disposed of it in private securities and land. He then informed me that I might gain without advancing the principal, and offered to conduct the business for me. He urged this proposal, which I then declined, being unwilling to enter into speculations which I did not understand. However, in the course of a few days, to my great surprise, he brought me the sum of 430*l.*, as the profit on a speculation, which he said he had made for me. Not wanting the money, I desired him to sport with it till he had lost it. Between that period and the 19th of February, the sum which he had gained for, and placed to my account, without fee or reward, and without my control, amounted to 4,200*l.* I have witnessed many disinterested acts of Mr. Butt, and I think him incapable of a dishonourable action. In justice to him I must also observe, that the notes in question were, as appeared on the trial, part of a sum lent by him, on the 25th of February, to Mr. Johnstone.

I now come, Sir, to the conduct of the judge before whom the cause was tried. The public have read an account of that conduct during the examination of the witnesses.

* * * * *

It must be in the recollection of the house, as it is in that of the public, that he urged, that he compelled, the counsel

to enter upon my defence after—midnight at the end of 15 hours from the commencement of the trial, when that counsel declared himself quite exhausted, and when the jury who were to decide, were of such weariness, as to render attention to what was heard totally impossible. The speeches of the counsel being ended, the judge, at half past three in the morning, adjourned the court till ten; thus separating the evidence from the argument, and, reserving his own strength and the strength of my adversary's advocate for the close, giving to both the great advantage of time to consider of the reply, and to arrange arguments to meet those which had been urged in my defence. By this means, too, another important object was secured. From the lateness of the hour at which the counsel were compelled to enter on my defence, it was impossible that that defence should appear the next day in print, while the speech of the advocate by whom I was accused would appear at full length. The object was completely attained; and thus were the public, by seeing hardly a word in my defence, while so much was urged against me, prepared to approve of the verdict which was given the next day.

Lord Ellenborough, in his charge to the jury, remarked, that in my affidavit of the 11th of March, I first connected the name of De Berenger with this transaction. It is true that I did so; and the fact was known to his lordship, for he had heard it in evidence, that when I gave it to be printed, I declared that "if Berenger was the impostor, I had furnished the clue to his detection;" and Lord Ellenborough was not warranted in insinuating, that I did this with any other view, than that justice might overtake him, if guilty, and to give him an opportunity of coming forward to justify himself, if innocent. Why I could not take this step sooner I have already explained: and the statement contained in my affidavit of the 21st of June, is full and decisive on the subject, and is a complete answer to the calumny, that I acted on the supposition of his being out of the kingdom. I, at least had done nothing to contribute to his escape—I had refused his application to join my ship without leave from the admiralty. If I had had the least reason to wish concealment, I could easily have smuggled him into the *Tonnant*. But it is obvious that I had no such intention.

Why did Lord Ellenborough, in his charge to the jury, (continued his lordship,) take one part of my affidavit as

true, and another as false?—He professed to quote from my affidavit as to the fact of my furnishing De Berenger with a coat to wear instead of his uniform: and puts it to the jury to consider, “whether a man coming so disguised, and going away again with a disguise in a bundle, was not on a dishonest errand?”—In all this, Lord Ellenborough professes to quote, and draw conclusions from my affidavit; and he represents me as acknowledging De Berenger to have come into my presence *disguised*; and going away again with his disguise in a bundle! If there be one word of this in my affidavit, then I am perjured, and Lord Ellenborough speaks truth. I stated, that De Berenger, an officer in a rifle corps, called upon me in a *green uniform*; and this, the judge submits to the jury, is a *disguise*, and a proof of his coming on a dishonest errand!

“But,” continued Lord Ellenborough, “if other witnesses are to be believed, that visiter went to Lord Cochrane’s house recently after having blazoned the false news, decorated with a star, a medallion, and dressed in a scarlet coat.” This is not correct; for there was only *one* witness who represented such visiter coming to my house in a scarlet coat, and not one word of the star or medallion. Why did not Lord Ellenborough submit to the jury, whether it was probable that De Berenger came there, and in that dress, by any previous arrangement of mine? Why did he not say, that it was for the jury to inquire, whether he came there as my instrument, or for his own convenience?

“Having hunted down the game,” continues this chief justice, “the prosecutors at last showed what became of his skin. And it is a *very material* fact, that the defendant Berenger stripped himself at Lord Cochrane’s.” Why is *it material*? Because it is one of those facts, which a guilty man would have been most anxious to conceal: and since this material fact never could have been known if I (Lord Cochrane) had not voluntarily divulged it, is chiefly important, as furnishing strong presumptive proof of my innocence.

“He stripped his *scarlet* uniform off there, and the circumstance of its not being green did not excite Lord Cochrane’s suspicion.” Did not Lord Ellenborough know that there was no evidence before the jury of De Berenger’s pulling off his *scarlet* uniform at my house? Even if it had been clear that he entered my house in that uniform, which

I verily believe he did not, which of the witnesses on the trial saw him pull it off at my house?—NOT ONE. On what ground, then, did the chief justice rest his assertion, that he pulled off his scarlet coat *in my presence*? That he pulled off any coat at all in my presence, he has no authority but my affidavit. And was he to give the prosecution the benefit of my evidence to the fact of De Berenger's pulling off a coat in my house, and to deprive me of the advantage of the like evidence as to the colour of it?

Lord Ellenborough goes on to say:—"That dress was such as ought to have immediately excited the suspicion of Lord Cochrane: for how could a man in such a disguise be supposed to have an honest purpose? If the colour of the coat escaped observation, what did he think of the star and medal? It became him, upon discovering these, as an officer and a gentleman, to communicate his suspicions of these circumstances. Did he not ask De Berenger where he had been in this dress? It was for the jury to say whether Lord Cochrane did not know where he had been."

Had the jury, Sir, felt confidence in their situation, would they not have started up in the box, and desired the judge to refer to his minutes, and point out where it had been given in evidence, that De Berenger was seen to wear the star and medal in my presence? This, perhaps, would have staggered him, and have led him, not to inquire whether *I* did not know where De Berenger had been, but to ask, where he himself was going—whether he was not travelling out of the record: * * * *

"This," continues the learned judge, "was not the dress of a sharpshooter, but of a mountebank. He came before Lord Cochrane *fully blazoned in the costume of his crime*." This is one of those extraordinary effusions of Lord Ellenborough's eloquence, that no language but his own can do justice to—* * * *

"And such a masquerade," concludes his lordship, "should have excited Lord Cochrane, from his duty to the public service, to inquire into, and, if he could ascertain it, to expose promptly the errand of De Berenger."

Throughout the whole of this charge—* * * *

* * * *

Why, Sir, did not the judge remind the jury, that I was

from home when De Berenger arrived—that De Berenger remained at my house for nearly two hours before I returned—that he had with him a portmanteau big enough to wrap a coat in? Why did he not say, that it was for the jury to consider, whether it was at all likely that De Berenger should have travelled to Dover in the dress of a mountebank, bedecked with stars and ornaments? Did not the judge know that he must have gone to Dover in another dress? The portmanteau could not be for the purpose of clean linen;—clean linen would not have favoured the appearance of a sudden arrival from abroad. Why did not Lord Ellenborough submit to the jury, that the portmanteau which served to convey the ornamental dress to Dover, would also serve to convey the plain dress back? And, instead of asserting that the impostor appeared before me fully blazoned in the *costume of his crime*, why did not the judge submit to the jury, whether he had not the means and sufficient opportunity of changing his dress before I saw him? Why did he suppress the circumstance respecting my brother's illness, which was in evidence; and why did he not ask, whether it was not possible that I might have been deceived? Had he any sufficient reason for not reminding the jury, that De Berenger, admitting him to have been De Bourgh, did certainly take the best and easiest means to get at once out of the way, by applying to go on board of my ship, where he had also a prospect of future advantage? Was there any thing so strange in my paying money to Mr. Butt, with whom I had constant pecuniary transactions? Lord Ellenborough, in his charge, made me answerable for Mr. Butt's application of his own money, and for the possession of notes by De Berenger, which were exchanged for notes that had before ceased to be mine. He asserted, that my duty to the public ought to have made me expose the fraud as soon as possible, as if it had been in evidence that I did not; when the fact was, that the knowledge of the imposition having been practised by a person coming to my house, never reached me on board my ship till the 9th of March, and I instantly applied for leave of absence, which I obtained, even before I heard from Lord Melville upon the subject. This was a fact well known to the judge; and yet he represented me as having secreted the fact of De Berenger's coming to my house. In short, Sir, the main object of the prosecution was, I am thoroughly

convinced, my degradation, and, especially, my expulsion from this house.

* * * * *

I now come, Sir, to the injustice done me subsequent to the trial. I did think, that as the witnesses who could materially have contributed to prove my innocence of the charge had not been examined, and as I could show that their not being examined originated in error, and that such error was not my own, that I had a just claim to a new trial. I thought, too, that the circumstance of my defence having been conducted jointly with that of another person, contrary to my express injunction, and of the counsel for that person having been compelled to enter upon the defence when exhausted, and unequal to the task of doing justice to his clients, and of my own counsel not having had an opportunity of speaking in my behalf, were additional reasons for a revision of my case. It is notorious that I made two applications for a new trial, and that both were rejected under the pretext of a rule of court—which is, that no person, however innocent, if included with others in an indictment for a conspiracy, and if, in the difficulty of separating the cases, is condemned, shall be allowed a re-hearing, unless he can catch his supposed associates, and compel them to accompany him into court—a condition which it is as indispensable as impossible to perform. As I could neither see the wisdom nor justice of this rule of court, I pressed very hard to be heard in behalf of my application; but it so happened that another person, also convicted of a conspiracy, had that very morning been refused a new trial for a similar reason; when his lordship said, that to grant to me that which he had refused to Askew, would be to lay down one law for the poor and another for the rich. He sentenced the Askews, who were convicted of a crime of the first magnitude, to twelve months imprisonment and the pillory; and he passed the like sentence upon me, with the *additional penalty of one thousand pounds*. The court must know, that one part of the sentence would be worse to me than death; and also well knew, that it was calculated to lead to new punishments in other places. It was intended to deprive me of those marks of distinction of which my sovereign once thought me deserving; to bereave

me of my commission in the navy, and of my seat in this house.

On my second attempt to obtain a new trial, I was indeed permitted to speak; and I have reason to believe, that the statement which I then read convinced many persons in court, and has since convinced many thousands out of court, of my entire innocence. Of the different documents on which my motion for a new trial was founded, some were not permitted to be read, and others were only read to be rejected. Among the latter was my affidavit of the 14th of June, to which I call the attention of the house:—

SIR THOMAS COCHRANE, commonly called Lord Cochrane, one of the above-named defendants, maketh oath and saith, that the several facts and circumstances stated in his affidavit, sworn on the 11th day of March last, before Mr. Graham, the magistrate, are true. And this deponent further saith, that in addition to the several facts and circumstances stated in his said affidavit, he deposeth as follows: that is to say, that he had not, directly or indirectly, any concern whatever in the formation, or any knowledge of the existence of an intention to form the plot charged in the indictment, or any other scheme or design for affecting the public funds. That the sale of the pretended omnium, on the 2^d day of February, was made in pursuance of orders given to his broker at the time of the purchase thereof, on or about the 11th of that month, to sell the same whenever a profit of one per cent could be realized. And that those directions were given, and the sale thereof took place, without any knowledge, information, hint, or surmise on the part of this deponent, of any concern or attempt whatever, to alter the price of the funds, and the said sale on the 2^d took place entirely without this deponent's knowledge. That when this deponent returned home from Mr. King's manufactory, on the 21st of February, which he did directly after the receipt of a note, he fully expected to have met an officer from abroad, with intelligence from his brother, who had, by letter to this deponent received on the Friday before, communicated his being confined to his bed, and severely afflicted by a dangerous illness, and about whom this deponent was extremely anxious. But this deponent found Captain De Berenger at his house, in a gray coat and a green jacket. That this deponent never saw the defendants Ralph Bandon, Alexander M'Fae, John Peter Holloway, and Henry Lyte, or any or either of them, nor ever had any communication or correspondence with them, or any or either of them, directly or indirectly. That this deponent in pursuance of directions from the admiralty, proceeded to Chatham, to join his majesty's ship "the Tonnant," to which he had been appointed on the 3^d of February last. That the ship was then lying at Chatham. That previous to the eighth day of February, this deponent applied to the admiralty for leave of absence, which was refused, until this deponent had joined the said ship, and had removed her down to Long Reach; that this deponent, in pursuance of those directions, removed the said ship from Chatham to Long Reach, and after that was done, (viz. on Saturday, the 10th day of the said month, this deponent wrote to the admiralty, to apply for leave of absence for a fortnight, for the purpose of lodging a specifica-

tion for a patent, as had been previously communicated by this deponent to their lordships; that leave of absence was accordingly granted for 14 days, commencing on the 14th of the said month; that this deponent was engaged in London, not expecting the said specification till the 28th of the said month, when the said specification was completed, and this deponent left town about one o'clock in the morning of the 1st of March, and arrived at Chatham about daylight on the same morning; that on the 8th or 9th of the same month of March, this deponent received an intimation, that placards were posted in several of the streets, stating that a pretended Colonel De Bourgh had gone to this deponent's house in Green-street; that at the time this deponent received this intimation, he was on board the said ship at Long Reach, and in consequence went to Admiral Surridge, the port admiral at Chatham, to obtain leave of absence, which was granted. Previous to the receipt of the leave forwarded by the lords commissioners of the admiralty this deponent arrived in London on the 10th of that month, to the best of his belief; and that after his arrival, conscious of his own innocence, and fearing no consequences from a development of his own conduct, and desiring only to rescue his character from erroneous impressions, made by misrepresentations in the public prints, he, without any communication whatever with any other person, and without any assistance, on the impulse of the moment, prepared the before-mentioned affidavit, which he swore before Mr. Graham, the magistrate, on the 11th; that at the time he swore such affidavit, he had not seen or heard the contents of the report published by the committee of the stock exchange, except partial extracts in the newspapers; that when the deponent understood that the prosecution was to be instituted against him, he wrote to Admiral Fleming, in whose service Isaac Davis, formerly this deponent's servant, then was, under cover to Admiral Bickerton, at Portsmouth, and that Admiral Bickerton returned the letter, saying that Admiral Fleming had sailed for Gibraltar; that this deponent sent his servants, Thomas Dewman, Elizabeth Rush, and Mary Turpin, on the trial of his indictment, to prove that an officer came to the deponent's house, on the morning of the said 21st of February, and to prove the dress that he came in: but that the said Thomas Dewman only was called, and, as this deponent has been informed, he was not interrogated as to the dress in which the said officer came to his house; and this deponent further says, that had the said witnesses been examined according to the directions of this deponent, and who were in attendance on the court for that express purpose, they would, as he verily believes, have removed every unfavourable conclusion respecting this deponent's conduct drawn from the supposed dress in which the said De Berenger appeared before the deponent on the 21st of February; and on which circumstance so much stress was laid in the charge to the jury, the said De Berenger's dress being exactly as stated in this deponent's former affidavit herein before-mentioned: and this deponent solemnly and positively denies that he ever saw the said De Berenger in a scarlet uniform, decorated by medals, or other insignia; and he had not the least suspicion of the said De Berenger being engaged in any plot respecting the funds, but merely believed he wished, for the reasons stated in deponent's former affidavit, to go on board this deponent's ship, with a view to obtain some military employment in America; and this deponent declined complying with his request to send him on board his ship without permission, or an order from the lords of the admiralty: and this deponent further saith, that he was in no degree intimate with the said De Berenger; that he had no personal knowledge of his private or public

character; that he never asked the said De Berenger to his house, nor did he ever breakfast or dine with this deponent therein, on any occasion whatsoever; and farther, this deponent saith, that he hath been informed, and verily believes, that the jury who tried the said indictment, and the counsel for the defence, were so completely exhausted and worn out by extreme fatigue, owing to the court having continued the trial without intermission for many hours beyond that time which nature is capable of sustaining herself without reflection and repose, that justice could not be done to this deponent.

Thomas Dewman, servant to Lord Cochrane, maketh oath, and saith, that he, this deponent, has lived with branches of Lord Cochrane's family for nearly twenty years; that he attended Lord Cochrane last year to take letters, and go errands, and that he has been in the habit of going to Mr. King's manufactory almost every day; that this deponent was in Lord Cochrane's house, in Green-street, Grosvenor-square, on the 21st day of February last, when an officer came in a hackney-coach, about ten o'clock in the morning; that this deponent opened the door and spoke to the officer in the coach, who asked if Lord Cochrane was at home; that this deponent replied he was not; upon which the officer asked the deponent if he knew where Lord Cochrane was gone to; to which the deponent answered, that he believed his lordship was gone to breakfast with his uncle in Cumberland-street; that the officer then asked if he could let him have a slip of paper, and a pen and ink, which this deponent said he could; that this deponent then opened the coach door, and the officer came into the house and went into the parlour, where this deponent gave him a small slip of paper, upon which he wrote a few lines by way of note, and desired this deponent to take the same to Lord Cochrane, in Cumberland-street; that this deponent went immediately into Cumberland-street, but finding that Lord Cochrane was gone, he returned with the note to the officer in Green-street; that on his return, the officer asked deponent if he knew where he could find him; that the deponent then told the officer he had been ordered by Lord Cochrane to follow him to Mr. King's manufactory with a glass globe, and thought it probable he might meet with his lordship there, and if he did not he would then go to the admiralty, where he understood his lordship was to go that day; that the officer then took back the note from the deponent, opened it, and wrote a line or two more, and then re-sealed it and gave it to the deponent, requesting him to take it immediately to Mr. King's manufactory, and that if he did not meet with Lord Cochrane there, he would take the note to the admiralty, and if his lordship had not been at the admiralty, to leave it there; that on the officer's requesting deponent to go to Mr. King's manufactory, he told the deponent that his finding Lord Cochrane was of consequence, and therefore begged deponent to be as expeditious as he could, and if necessary, to take a coach; that the deponent did not take a coach, but went instantly to Mr. King's manufactory, where he met Lord Cochrane and delivered him the note, which he opened in deponent's presence; that, upon opening the note, Lord Cochrane asked deponent several times if he knew who the gentleman was that had written it, and upon deponent's informing him he did not, Lord Cochrane made several inquiries as to his appearance and dress observing that he could not make out the whole of the note, or who it came from; to this deponent answered that he was an army officer, upon which Lord Cochrane, having torn

the note, said "Very well, Thomas, I'll go back;" that from Lord Cochrane's manner and appearance, and the questions he put to deponent on his delivering the note, this deponent verily believes that his Lordship did not know from whom it came; and this deponent further saith, that when the officer came into Green-street, as above stated he was dressed in a gray great coat, such as the Guards wear, which was buttoned close round the body up to the breast, and that such part of the under coat as he could see, was of a dark green colour; that upon the officer's coming out of the coach into Lord Cochrane's house, he brought with him a sword, and a small leather clothes bag or portmanteau, which deponent believes might have held a change of clothes; that his deponent further saith, that he was hired by his lordship at Christmas last to go into the country, and relieve Richard Carter, his lordship's sea-steward; that this deponent left London about the 25th day of February, and Richard Carter, the sea-steward, then came to town for the purpose of accompanying Lord Cochrane to his ship.

Sworn in court this 14th

day of June, 1814.

By the court.

THOMAS DEWMAN.

Mary Turpin, cook-maid to Lord Cochrane, maketh oath and saith, that she went into his lordship's service on the 18th day of February last, and that she was in the house on the 21st day of February, when an officer came there, and that she was in the kitchen at the time the coach drove to the door; that she saw an officer alight from the coach and come into the house; that he arrived a little before nine o'clock; that this deponent went twice into the parlour while the officer was there, and doth most positively swear that he wore a gray great coat, buttoned up, with a dark green collar, or green facing under it. That the officer had with him a dark military cap, with a gold band round it, and also a sword, and a small portmanteau.

Sworn in court, 14th day of

June 1814.—by the Court.

MARY TURPIN.

Eleanor Burnes, house-keeper to Lord Cochrane, maketh oath and saith, that she has lived with his lordship since January last and well remembers being told that an officer came to his lordship's house in Green-street, Grosvenor-square on Monday the 21st of February last; and this deponent farther saith, that at the time the officer arrived she was not at home, but that she returned between eleven and twelve o'clock. That seeing a cap in the parlour, she inquired of Mary Turpin whose cap it was, and that the said Mary Turpin replied, that it belonged to an officer who was with his lordship in the drawing-room; and this deponent further saith, that she took up the cap which was of a dark brown colour, with a gold band and tassel and immediately afterwards went to her room, and did not see the officer. That the deponent never saw Captain Berenger to her knowledge.

Sworn in court, June 14, 1814.

By the court.

ELEANORA BURNES.

Sarah Bust, of No 4 Great Mary-le-bonne-street, in the county of Middlesex, spinster, maketh oath and saith, that she lived a servant with Lord Cochrane for nearly twelve months and that she quitted his service on the evening of the 21st of February last; that she well remembers an officer coming to his lordship's house in Green-street, on the morning of that day; that the officer sent the man-ser-

want out; that the officer had a gray great coat, which was buttoned up to the breast, and that the neck of his under coat, or such part as she could see, was a dark green; and he had also with him a military cap.

Sworn at my chambers in Sergeant's

SARAH BUST.

Inn, London, this 18th June, 1814.

S. LE BLANC.

Here, Sir, I submit, is ample refutation of the aspersions cast upon me from the Bench. I trust the house will now be satisfied, that I lost no time in divulging all that passed, and did, at the earliest possible period, make a full disclosure of all that passed between me and De Berenger on the 21st of February, and that he did not appear before me in the "*costume of his crime*."

Of all tyrannies, Sir, the worst is that which exercises its vengeance under the guise of judicial proceedings, and especially if a jury make part of the means by which its base purposes are effected. The man who is flung into a prison, or sent to the scaffold, at the nod of an avowed despotism, has, at least, the consolation to know that his sufferings bring down upon that despotism the execration of mankind; but he who is entrapped and entangled in the meshes of a crafty and corrupt system of jurisprudence—who is pursued imperceptibly by a law with leaden feet and iron jaws—who is not put upon his trial till the ear of the public has been poisoned, and its heart steeled against him, falls, at last, without being cheered with a hope of seeing his tyrants execrated, even by the warmest of his friends. In their principle, the ancient and settled laws of England are excellent; but, of late years, and especially since the commencement of the present reign, so many injurious and fatal alterations in the law have taken place, that any man who ventures to meddle with public affairs, and to oppose persons in power, is sure and certain, sooner or later, to suffer in some way or other.

Sir, the punishment which the malice of my enemies has procured to be inflicted on me, is not, in my mind, worth a moment's reflection. The judge supposed, apparently, that his sentence of pillory would disgrace and mortify me. I can assure him, and I solemnly assure this house, my constituents, and my country, that I would rather stand, in my own name, in the pillory every day of my life under such a sentence, than I would sit upon the bench in the name of
* * * * * for one single hour.

Something has been said, Sir, in this house, as I have read, about an application for a mitigation of my sentence, in a certain quarter, where it is observed, that *mercy* never failed to flow. It was, I am informed, his majesty's attorney general, who (I suppose unintentionally) offered this last insult to my feelings. I excuse it, because I am aware, that the learned gentleman is an utter stranger to the sentiments that inhabit my bosom; but I can assure him, that an application for pardon, extorted from me, is one of the things which nothing has the power to accomplish. No, sir, I will seek, and I look for pardon no where; *for I have committed no crime*. I have sought for, I still seek for, and I confidently expect, *justice*; not at the hands, however, of those by whose machinations I have been brought to what they regard as my ruin, but at the hands of my enlightened and virtuous constituents, to whose exertions alone the nation owes that there is still a voice to cry out against that haughty and inexorable tyranny which now commands silence to all but parasites and hypocrites.

His lordship concluded by protesting before Almighty God, that he never knew any thing about the offence of which he had been found guilty.

The noble lord then handed to the clerk various letters and affidavits for the information of the house.

The SPEAKER said, the noble lord having now concluded his defence, he will withdraw.

LORD COCHRANE. "I shall withdraw, Sir; I cannot too often or too earnestly implore the house to inquire. Never in the history of this country was a case of such gross and cruel injustice recorded. I could submit to any punishment, however severe, after due inquiry, but I entreat the house to give me an opportunity of proving how the bank notes came into the hands of Mr. Butt, and other strong circumstances to which I have referred in the course of my defence, and I pledge my honour that not a doubt will remain on the mind of a single member in the house." His lordship, then in the act of withdrawing, stopped and made an appeal to the house, which, from his own evident emotions and peculiarly impressive manner of delivery, ex-

cited universal and compassionate attention. "I am entirely ignorant of the whole transaction: I call the Almighty God to witness this asseveration. If I am guilty, after your investigation, consign me then to infamy and ruin; but let me not be summarily sacrificed with all my weapons of defence unproduced and rejected. If even that jury knew these facts, they would not have returned such a verdict."

Lord COCHRANE then withdrew.

The SPEAKER proposed that his lordship should be remanded into the custody from which he had been brought, which, on the motion of Lord CASTLEREAGH, was ordered.

Lord CASTLEREAGH said, he was certain there could be but one wish in this house—that of hearing all the noble lord could say in his own defence; but it could not have escaped the house, that great part of the noble lord's statement had the object of criminating persons of the highest character in the kingdom. He had not interrupted the noble lord, because, in such a case as this, it was difficult to distinguish at what point it was proper to interfere; but he did now trust that none of the calumnies uttered by the noble lord would be reported elsewhere. If such should be the case, it must be considered as *a great and wanton abuse of indulgence*; and if it should be followed by notice on the part of any one, he trusted none of those concerned would consider or urge a want of warning as a justification or excuse!

Mr. BROADHEAD observed, it was impossible any person could witness the fall of such a man as he who had just left the house, without the greatest pain; and much lamented, that in justice to themselves, the house could not pass his case over. With respect to the address of the noble lord, he would make no observation upon it, but content himself with following the course he had laid down for himself, and leave the house to act upon it. He had felt it necessary for the honour of the house to call its attention to this case. After alluding to the case of Mr. Walsh, a member of the house, who was condemned to be hung, but afterwards pardoned, Mr. B. moved—"That it appeared

to the house, that Thomas Lord Cochrane had been convicted of a conspiracy with others, to raise the price of the funds," &c.

Mr. BROWNE said, the house had heard the speech of the noble lord, and the ground on which the hon. gentleman had moved his lordship's expulsion. It would be for the house to say whether it would judge from the evidence, or from the record of the conviction merely. In what he (Mr. Browne) on a former occasion, had urged to induce the house to review the evidence, and not to judge by the verdict, he had been led by a sense of justice, because the noble lord had been excluded by a rule of court from obtaining a review of his case. The very course that had been taken convinced him, that a review of the circumstances ought to be taken by the house. For if it did not, they could not determine on the circumstances stated by the noble lord in his justification. It had been admitted on all hands, that when there was any matter presented to the house to shake its confidence in the judgment of a court below, it was its bounden duty to review the evidence. In this case the noble lord had solemnly protested his innocence. A learned gentleman would tell him that few persons were to be found complaisant enough to confess the justice of their sentence. But from the habits and the mind of Lord Cochrane, he did not believe he could have faced that awful tribunal, and assert his innocence so solemnly, unless he was impressed with the fullest conviction of it. Could any man say that his mind was made up as to the complete and positive guilt of the noble lord? It was sufficient to shake the confidence in the verdict, and to suspend so penal a motion as that of the hon. gentleman, when he heard a whisper against the manner in which the noble judge was said to have addressed the jury. It was too much, with so few facts before the house, for them to say that the noble lord at the head of the court had not interfered in the way described by Lord Cochrane with the course of public justice. The case should be referred, he thought, to a select committee to take it into consideration, and to report upon it. He then moved that the statement of Lord Cochrane should be referred to a select committee, with leave to send for papers and examine witnesses.

The ATTORNEY-GENERAL said, that in point of form, the present motion differed from that made by the same

honourable gentleman; but the foundations of both motions differed very little indeed. The first was, because the noble lord had been refused a new trial by a rule of court: but he repeated, that the rule in question did not so operate to the disadvantage of the noble lord. Two questions had been propounded to the friends of the noble judge: one was, whether he had not directed the counsel for the prosecution as to the manner of drawing up the indictment against Lord Cochrane? He asserted that no such thing was done. The verdict had been arraigned on another ground; for it had been stated, that the chief justice could not procure a verdict against Lord Cochrane without having a jury packed, and under his influence: appointed by an officer who obtained his situation for political purposes, in order to do this work of iniquity. The jury was appointed by the master of the crown office, who was removable, like the chief justice himself, only in consequence of bad behaviour. The agents of these defendants were of the most respectable of the profession; but the hon. member, who had not appeared in his place, had himself attended the reduction of the jury.

Mr. BRAND said, he thought that before they should send a member back to his constituents, they should have before them the evidence on which the record of his conviction rested. In this case he thought it peculiarly necessary; for the case of the noble lord depended on the dress in which De Berenger had arrived at his house; and also on the way in which the bank notes the noble lord had given to Mr. Butt came to De Berenger's hands. Now, the noble lord had stated, that it was only within a few days he was able to account, by his wine merchant, for the notes; and indeed he had now offered evidence, which, in his opinion, the house, in justice to his character, ought to examine.

Mr. BARHAM thought it no wonder, if Lord Cochrane should be innocent, that he should look with jealousy to his right hand and to his left. It must be remembered, that one in his situation could not well be supposed to speak in cool blood. His (Mr. B's.) conviction of the noble lord's innocence had been gradually gaining strength; for he appeared to have laboured under a great disadvantage on his trial, in consequence of his conduct having been arraigned by a previous tribunal, unknown to the law. Besides, he seemed to have been so full of his innocence, as not to have

taken common care to secure himself upon the trial. In consequence of those circumstances, and the punishment so excessive, he could not vote for more punishment.

Mr. PONSONBY said, as to the rule which had prevented the noble lord from obtaining a new trial, he was unable for his part to know on what principle of law or justice it could be allowed to stand. By that rule the innocent might be confounded with the guilty, although they were told from the highest authority, that it is better that 99 unjust persons should escape, rather than one just one should be punished. Lord Cochrane had stated that he had it in his power to prove that the notes had found their way into De Berenger's possession without his privacy. If that were true, he (Mr. P.) could not vote for his expulsion. Being now called to superadd another punishment on the noble lord, he was of opinion that they should have all the evidence brought before them. For this purpose he thought a secret committee would be best. He was the last man who would interfere with the due administration of justice; but he saw no danger in proceeding this way. Even it might be as well to adjourn the debate, to give them time to think upon the subject; for at that time he could not bring himself to vote for the expulsion.

Lord CASTLEREAGH thought it necessary, for the character of parliament, to make up its mind as soon as possible, on the principles on which it should proceed in a case of this kind. If this proceeding were not well weighed, parliament would be opening a door for others to expect the same chance of clearing themselves. He had always understood, that by expulsion no addition was made to the ignominy of the person accused; that the house could not inquire into their guilt or innocence, but only that they were no longer fit persons to hold a place in the councils of the nation. He entreated the house not to delegate to a committee above stairs the power of investigating the characters of the courts of law, and that too in a star chamber, sitting in secrecy. He trusted the house would be better to endure an individual so charged amongst them, than to assume a jurisdiction which it could never exert for the general benefit. He therefore conjured the house not to think they were inflicting punishment; for that implied a right of trial.

Mr. S. WORTLEY would rather vote for the amendment than for the original motion. He had always had some doubt of the guilt of the noble lord, and he now had more; for it might have been a contrivance of others to throw the blame on him.

Mr. BANKES said, that there were only two modes in which they could proceed; and these were, either to reject the motion of the honourable gentleman opposite, or to proceed to the expulsion. If members had strong doubts as to the guilt of the noble lord, it became them to act according to the dictates of their own consciences, and acquit him; but if they should they would be acting contrary to the precedents of that house; for there was no instance of a criminal conviction against a member, where the expulsion did not follow as a matter of course. The house was utterly incapable, by any of its known powers, to re-try a cause which had been determined by the highest court of jurisprudence in the country; and would it delegate to a select committee the powers it did not possess?

Mr. WHITBREAD was surprised that the hon. gentleman would wish them to be so buried in precedents as to be bound by them to do injustice. It was only by considering this case unmixed with others, that we could come to a conclusion with justice to the noble lord who had that night exhibited a sad reverse of all that was distinguished in his profession, and noble in his rank. He, however, saw great difficulty in the mode of proceeding. He (Mr. W.) might think the noble lord innocent, without arraigning the verdict, or blaming the conduct of the bench. The impression on his mind was, that the noble lord seemed to be willing to array the whole feelings of the house against him. He should vote against the expulsion, because his doubts were strong; for he might have been entrapped by others. He (Mr. W.) alluded to the advice the person who had absconded had given to the noble lord not to go down to the house and defend himself, on the first mention of this conspiracy; because if he did, it would be his utter ruin. It was possible that this person might have misled him in more instances than one. If it came to a vote of expulsion, he would say—Not Guilty.

Mr. BATHURST said, it was utterly impossible that an inquiry like that proposed could take place, for they could not summon the noble lord who tried the cause before a se-

lect committee to be examined. There were many instances in which persons had gone out of the world persisting in a falsehood; and a relative of the noble lord had asserted his innocence in that house; yet no one had attempted to state that he was so, or that a jury had been packed against him. But he might, if he chose to appear, have a story as good to tell as the noble lord had. Besides, this person had stated, that he meant again to hold himself up to his constituents, and that might be a motive for all the steps he had taken in his defence. As to the facts which the noble lord had represented he could now prove, there appeared to him nothing in them to have prevented their having been proved on the trial. Indeed, there was nothing in the case that should induce the house to travel out of its usual path.

Sir FRANCIS BURDETT felt that the asperity by which the speech of the right hon. gentleman who had just sat down had been characterized, would be more than compensated for, in the mind of every person who entertained sentiments friendly to the noble lord, by the liberality and generosity which seemed to pervade the house at large. He could not help giving utterance to the mixed feelings which this contrast had excited in his own bosom. He must previously observe, that the right hon. gentleman had abandoned the ground upon which he had at first taken his stand, namely, that a vote of expulsion was to be founded on the record; and he thought there was much want of candour evinced by the ground he had substituted. He had altogether misrepresented the statement made by the noble lord, with respect to the mention made of the judge's charge relative to the appearance of M. De Berenger before the noble lord, arrayed in the insignia of various orders and other marks of rank; and he must, for his own part, now declare, that had he been on the jury which tried the noble lord, he should have felt himself bound by his oath to find a verdict of guilty on that representation which it appeared had been made by the judge, and which the evidence did not justify. (*Hear!*)—The right honourable gentleman had assumed that Mr. Cochrane Johnstone, and the other persons supposed to be concerned in the conspiracy, might urge the same grounds of indemnity as those urged by the noble lord: but how could he for a moment overlook the different situations in which persons were placed by their conduct? Mr. Coch-

rane Johnstone had fled from the animadversion of the law, while his noble relation had stood his ground, and challenged that animadversion, and, anxious only to establish the parity of his character, laughed at its penalties. He was unwilling to impute any improper motives to the jury which had tried the noble lord, but he thought that circumstances had come to light since the trial, which if they had been before them would have altogether changed the nature of their verdict. The honourable baronet then animadverted on the lofty manner in which the noble lord (Castlereagh) had held up the character of the judge as proof against any attack, and coupled it with the terror which he had immediately after endeavoured to infuse into the minds of the persons who attended the house for the purpose of reporting the debates. He then went on to state his thorough belief of the innocence of the noble lord; commented on the nature of special juries: on that of the evidence which had been adduced on the trial, and dwelt much on the improbability of Lord C. becoming, all at once, a base and unprincipled swindler; and concluded with expressing a hope, that the house would not proceed suddenly to so severe a measure as had been called for by the motion before them.

Mr. C. W. WYNNE thought, that if the motion for expulsion was refused, some measure ulterior to that of a committee of inquiry, if it established the innocence of the noble lord, must of necessity be resorted to.

Colonel VYSE thought the notoriety of the conviction, and the grounds on which it was brought, a sufficient authority for the house.

The SOLICITOR GENERAL expressed his conviction that no sufficient grounds had been laid for a departure from former precedents.

Lord A. HAMILTON was of opinion that sufficient grounds had been laid for the postponement of the discussion.

Mr. WILBERFORCE in strong terms deprecated any proceeding which could in any way reflect upon the purity and sacredness of our judicial institutions, which formed the peculiar admiration of other countries.

Mr. WROTTESEY, after some intermediate conversation, moved, that the farther consideration of the question be adjourned to this day se'nnight.

Lord CASTLEREAGH opposed the second amendment, as containing a highly objectionable principle, that of reserv-

ing to the house the discretion of reviewing the evidence of a court of criminal justice.

Mr. W. SMITH was decidedly of opinion, that the conduct of the judges was open to parliamentary inquiry; and with his feelings and opinions on the subject, he felt it his imperative duty to support the question for delay.

The house then divided on the question for adjournment.

For the question 74—Against it, 142—Majority, 68.

A division then took place on the question of the expulsion. For the expulsion, 140—Against it, 41—Majority, 99.

WESTMINSTER MEETING.

On Monday the 11th July, 1814, a very numerous meeting of the electors of Westminster was convened in Palace yard, pursuant to a requisition for the purpose of considering of a fit and proper person to serve in parliament for the city of Westminster, in consequence of the present vacancy.

At one o'clock, when the high bailiff appeared on the hustings, accompanied by Sir F. Burdett, Major Cartwright, Mr. Wishart, &c. the surrounding crowd burst out into loud cries of "*Lord Cochrane! Lord Cochrane!*"—The high bailiff stated to the meeting, that he had received two letters, the one from Lord Cochrane, (the same as the defence he read in the house of commons,) which containing matter that might be deemed libellous, he hoped they would excuse him reading; the other from R. B. Sheridan, Esq. which, with their permission, he would read.

The purport of Mr. Sheridan's letter was to inform the electors, that although he had been requested by a respectable number of the citizens of Westminster to stand as a candidate on the day of election, he waived his right and interest, on this occasion, in favour of Lord Cochrane. The electors expressed their sense of his generous and disinterested conduct, by loud and repeated applause.

Sir F. BURDETT delivered a very animated speech; in the course of which he strongly reprobated the conduct of Lord Ellenborough. and the sentence of the jury, protesting that he was thoroughly convinced of the entire inno-

cence of Lord Cochrane, and moved that the meeting should declare the same conviction.

Mr. WISHART and Major CARTWRIGHT supported the motion, which, after an address from Mr. Alderman WOOD, was unanimously carried by acclamation; and also, that his lordship should be put in nomination on the approaching day of election.

WESTMINSTER ELECTION.

On Saturday, the 9th of July, pursuant to public notification, the electors of the city of Westminster assembled in the front of Covent-garden church, for the purpose of electing a representative to serve in the present parliament, in the room of Lord Cochrane, recently expelled the house of commons. At nine o'clock, Sir Francis Burdett, accompanied by the Westminster Committee, appeared on the hustings, amid repeated shouts, and continued acclamations. The crowd collected was immense, and when the clock struck ten, an universal shout was set up, and cries of "Cochrane, Cochrane!" arose on all sides, and continued while Mr. Morris, the high bailiff, read the speaker's warrant for a new election, and took the oaths commonly administered, to insure a fair and impartial return.

SIR FRANCIS BURDETT came forward amid universal acclamation, and addressed his constituents in nearly the following words:—

"Electors of Westminster—Gentlemen, in pursuance of the unanimous resolution of the electors lately assembled in Palace-yard, I appear before you to put your declaration in practice; and such has been the effect of your spirit and unanimity, that you are not faced to-day by any court candidate or pretender of any description; your resolution has imposed silence on all parties. (*Loud applause.*) It would ill become me to detain you from fulfilling the great purpose for which you have assembled, namely, to maintain the cause of the oppressed; but my duty prompts me, and perhaps it might be expected that I should address a few words to the enlightened electors of Westminster on an occasion so novel and momentous. (*Applause.*) Gentlemen, this day you present the most august spectacle which the

world can exhibit—the image of a free people—a people appealed to as the last resort, by a gallant and innocent individual, almost overwhelmed by artful machinations, who turns his eyes to you in his despair, and appeals to your judgment with a confidence and with a firmness which innocence, innocence only can inspire. (*Applause.*) You appear in the character of the most distinguished among the people of England for honesty, liberality, and justice; and those preëminent characteristics will be to-day sufficiently and effectually displayed. It is needless for me to recommend, on the ground of personal merits, the person whom I propose to name for your nomination. Here we stand without any view to personal merits, or merits of any description whatever, in defence of an oppressed man, as the lovers of justice, with all its distinguishing attributes. Though wicked reports, and though malignant artifices have been but too successfully played off against Lord Cochrane, they can have no weight here: Let us proceed as in the case of one whose apostacy afterwards injured the cause he pretended to espouse, who was believed a patriot, and found dishonest, I mean John Wilkes. Let us imitate the example of those who, in spite of all disadvantages, supported him from a sense of justice, and because he maintained the great cause of liberty, which never fails to vibrate in the uncorrupted hearts of Englishmen. (*Loud applause.*) Gentlemen, you displayed a laudable respect, reverence, and admiration for the illustrious sovereigns of the north who have recently visited you; you admired, you revered them as the protectors of the liberty, and promoters of the happiness of mankind; for had they appeared in their own artificial situations as kings and emperors, undistinguished by any other attribute which adorns and elevates human nature, they would have passed along our streets unnoticed and neglected. (*Applause.*) I lament that those illustrious visitants have gone away without witnessing what far outweighed all the treats, the shows, and entertainments with which they were welcomed—a spectacle exhibiting a free people maintaining the right of a free citizen against the arm of power and corruption—a sight which no other nation on earth can afford them. (*Applause.*) Gentlemen, I lament their departure; for now the emperor of Russia may traverse his vast dominions from limit to limit, may visit all other nations, civilized or barbarous, and remain unsatisfied that any one nation maintains

liberty as its leading feature. (*Applause.*) This great and enlightened city has set an example of a more exalted nature than any recorded in history; and even the best period of the ancient and glorious republic of Rome sinks by comparison. A people now appears unlikely to be biassed by fraud or corruption, who are above bribery; whose honesty, like the chastity of Cæsar's wife, is even unsuspected; whom the hand of corruption dares not touch, from respect and dread of superior virtue: and these people are the inhabitants of Westminster. We have heard lately a great deal about hoaxes. Lord Cochrane himself was accused of being concerned in a hoax; unfortunately there are many hoaxes in the world. We are told, that a person accused is entitled to a trial by a jury, not composed of men chosen, selected and picked; and can a greater hoax be played upon any man than to place him before a picked jury, and afterwards tell him he has been tried according to the law of the land? It is also constitutional language to say that a judge ought to be impartial, and not sit unmoved like a stone on the bench; we are also told he should be counsel for the prisoner, but what kind of counsel was Lord ——— for Lord Cochrane? Was not the latter certainly hoaxed?—Wherever we walk and turn ourselves, we see hoaxes?—We see a hoax on the Serpentine River; we see another in St. James's Park: and what is the greatest hoax of all, we are informed it is all to please the people, as if the whole proceeded from the liberality of those who gave orders for those entertainments. (*Laughter and applause.*) I happened to look into a newspaper this morning, where I saw with much surprise the following paragraph—a newspaper, too, remarkable for hoaxing, and which, some time ago, fabricated a French newspaper for the purpose of raising the funds:—"The Princess Charlotte continues to reside at Carlton House, and expresses the greatest satisfaction with her situation: her royal highness is highly pleased with her reception," &c. Now, this appears the greatest and most impudent hoax of all I have enumerated. But there is a greater hoax still;—even the gentlemen who meet in St. Stephen's Chapel, whose pockets are filled with the gain of the public money, those very delicate gentlemen, who denominate themselves the representatives of the people of England—this is a hoax which, with your support, now since the time of danger is passed

over, I would willingly crush, and, with one united effort, place in their stead the real representatives of the country. (*Applause*)—If one argument to accomplish this be greater than another, it is the example of the electors of Westminster on this and all occasions, and which effectually contradicts the courtly falsehoods held out against the people, as if they were incapable of performing aught except by the exertion of brutal force. You, gentlemen, permit not yourselves to be solicited for your suffrages; you bestow them spontaneously; and they would lose your support, as well as your respect, who would clasp your hands, as I have seen some great men doing to others, and solicit your votes. (*Applause.*) I wish to see your bright example followed throughout the kingdom; then corruption will hide its head, and oppression yield to justice. (*Applause.*) What would have been the condition of Lord Cochrane to day, had he appeared as the representative of some rotten and insignificant borough? He would have been lost without redemption—You will have the satisfaction of redeeming from complete perdition an innocent man—the pleasure of destroying the well-wove web of deception, and giving a severe, if not a mortal thrust to that system of corruption which it has been the aim and endeavour of my life to overthrow. (*Applause.*) I will only say, that Lord Cochrane, during the whole of this trying accusation, has done nothing to which I would not subscribe—has done nothing but what merits your praise and your cordial support; and I conclude by recommending, for your unsolicited representative in parliament, Sir Thomas Cochrane, commonly called Lord Cochrane.” (Loud and continued acclamation and shouts of “*Lord Cochrane forever!—the gallant Lord Cochrane!*”)

Mr. STURCH came forward, amid repeated cheers, to second the motion. When he formerly appeared before the enlightened inhabitants of Westminster, none could suppose he had the vanity to imagine, that his recommendation of a person for their representative could have any weight. He knew then he had little more to do than to mention the name of that tried patriot and undaunted servant of the public, Sir Francis Burdett, to ensure his election. (*Applause.*) He was conscious of his inability to strengthen the impression made on their minds by the eloquent speech just delivered by the Hon. Baronet, recommending Lord Cochrane as their representative. He would

have taken no part in the present business himself had he not most carefully examined the best accounts of the trial of his lordship, by which he was confirmed in the persuasion of his innocence. His concurrence with the motion of re-election proceeded from a feeling of duty; for he had no concern in the former nomination of Lord Cochrane: he had no connexion with him whatever; nor had he ever conversed with him till after his committal, when he waited on him to offer consolation, and found him calm and tranquil; and the collected manner in which he talked of his misfortunes strengthened the belief of his innocence. On the ground of innocence alone he wished to recommend Lord Cochrane to their protection; he would not even mention him as the undaunted opposer of a corrupt administration, nor describe him as a fearless commander, who had a thousand times risked his life for his country. However plain the guilt of others might appear, Lord Cochrane had been convicted without sufficient evidence, and sentenced to a punishment at which the whole kingdom stood astonished. Let them, therefore, show their detestation of the manner in which he had been treated, by restoring him, free of expense, to the seat from whence he had been expelled. Many a time Lord Cochrane had felt for the oppressed; he was oppressed now in his turn; let them exert themselves in his behalf, not from his merit, but out of respect to their own honour.

The high bailiff then announced to the electors, that Lord Cochrane was duly returned as representative in parliament for Westminster, at which an universal shout was raised.

Alderman Wood then came forward, and congratulated the meeting on the re-election of Lord Cochrane. He complained that one of the newspapers had misrepresented a speech which he had the honour of making in palace-yard: he was made to say, that in a little *chit-chat* with some of the jury that tried Lord Cochrane, they informed him, that if his lordship had defended himself as well at the King's Bench as he had done in parliament, they would not have found him guilty. This declaration was not made in a little *chit-chat*, but in a serious conversation, which had much influence on his mind. Something vindictive certainly appeared at the bottom of the prosecu-

tion; for a positive order had been sent to the sheriffs to place Lord Cochrane on the pillory on the 10th of August (cries of *never, never! shameful!*)—He had once been sheriff himself, and were he sheriff now, when such an order was given, he would say it did not suit his pleasure; he would place him in the pillory when it pleased himself. (*Applause.*) They had been told of the kindness of Carlton House for the people; but he could tell them, with all this kindness, an illustrious personage had tried to get out of that people's clutches three times. A pleasing task had devolved on him, of proposing a vote of thanks to the high bailiff of Westminster, for his good conduct on this occasion. This motion was carried with acclamation.

The thanks of the electors were also given, on the motion of Mr. Wishart, to their truly honourable and patriotic representative, Sir F. Burdett; and acknowledgments were made by the worthy baronet in a brief but characteristic speech, after which the meeting broke up.

LORD ERBINGTON, on the 19th of July, brought forward a motion for a petition to the Prince Regent to remit that part of Lord Cochrane's sentence which related to the pillory. After tampering with the feelings of the house for two hours, Lord Castlereagh at length condescended to put an end to a very animated debate, by informing them, that the prince had been pleased to remit that part of the sentence; but, lest the country should still entertain its belief that Lord Cochrane was less guilty than De Berenger, the pillory was dispensed with *in his case* also, as well as in that of Mr. Butt.

APPENDIX.

THE case of Lord Cochrane has excited a degree of interest more lively than any domestic occurrence within the compass of the present eventful period. His naval celebrity, which procured him, along with Sir Francis Burdett, the most distinguished seat in the house of commons, and his indefatigable pursuit and detection of abuse in the naval department, had linked him to the general topic of his country by no common tie. Though his incessant, but irregular attacks on the admiralty, evinced little or nothing of the *politesse* or grave eloquence of the senator, yet the harassing and random manœuvres with which he perplexed the treasury bench, when they very much wished to be delicately silent, had acquired him a name for uniform integrity and blunt

honesty, which endeared him not only to his fellow-seamen, but to Great Britain, which fondles them as "her prop and stay in the hour of danger" till an unlucky enterprise, in a sea he had not before navigated, had nearly upset him. His country wondered at his folly—his political friends felt for him—while his enemies congratulated each other, and laughed.

When these sheets were put to press it was intended to have concluded them with a detailed analysis of the evidence adduced on the trial, as far as it related to the case of Lord Cochrane. Circumstances, however, have operated to preclude such a review, and we have room only to request attention to the leading features of that evidence, which seem decidedly and satisfactorily opposed to the opinion of his jury.

1. Lord Cochrane was indicted along with De Berenger and others, for *conspiring* to raise the price of the public funds. In the depositions of we do not know how many witnesses, who had been all previously and deliberately drilled by the committee of the stock exchange, which had matured a phalanx of evidence to establish every thing that could be traced to the conduct of Lord Cochrane in the stock transactions of the 21st of February, there is not the vestige of proof—not even an *insinuation*—that Lord Cochrane had the slightest share in the contrivance of that plot; and, throughout the whole of that rigorous scrutiny into the conduct and every minute transaction of his lordship, previous to De Berenger's arrival at his house *after* the hoax had been effected, his name is not even connected with that of De Berenger. It follows, then, that his lordship's participation in the fabrication of the hoax, or in the *conspiracy*, as it is called, is unsupported by even the shadow of direct evidence.

2. The landing of De Berenger at the house of Lord Cochrane on his arrival from Dover, would have been a singular circumstance indeed, were we to suppose that his lordship was a party concerned in the fraud. Must not Lord Cochrane, might not a child, have foreseen, that that very occurrence, which must have inevitably led to his detection, should, as it could easily, have been avoided by an interview in any other house but his own?

3. Let us for a moment attend to the circumstances in which Lord Cochrane was found on the morning of the 21st of February, before and after the arrival of De Berenger. He was following his usual morning's amusement, in superintending the experiments in his recent invention at his tinman's—not at his stock-broker's, although the speculations of that eventful day were so materially to affect his pecuniary fortune. After De Berenger's note was delivered to him, it was nearly *two hours* before they had an interview. After this interview where is the evidence that Lord Cochrane availed himself of any supposed intelligence which De Berenger might communicate as to the probable rise of the funds? Can his lordship be traced, as might naturally, on this supposition, have been expected, to Mr. Fearn, or Mr. Butt, or to the Stock Exchange? Mr. Fearn solemnly swears, that, on that day, *he sold Lord Cochrane's stock and omnium, without having even seen his lordship*, and solely from the injunction he had previously received, to sell out, whenever a profit of one per cent could be realized.

If all these circumstances be connected with fraud, the garb of honesty is nowhere to be found, and innocence is left without a protector. His lordship's defence is so explicit and satisfactory, as to the minor parts of the evidence, such as the transit of his bank notes into the hands of De Berenger, that it would be superfluous to recur to them.

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