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A

DETAILED EXPOSURE

OF

THE APOLOGY

PUT FORTH BY THE

NEAPOLITAN GOVERNMENT,

IN REPLY TO THE

CHARGES OF MR. GLADSTONE,

✓
LT
UNDER THE TITLE OF

RASSEGNA DEGLI ERRORI E DELLE FALLACIE PUBBLICATE
DAL SIGNR. GLADSTONE, IN DUE SUE LETTERE INDIRITTE AL CONTE
ABERDEEN SUI PROCESSI POLITICI NEL REAME
DELLE DUE SICILIE.

LONDON:

LONGMAN, BROWN, GREEN, AND LONGMANS.

1852.

LONDON:
SPOTTISWOODES and SHAW,
New-street-Square.

A

DETAILED EXPOSURE,

&c. &c.

THE Neapolitan Government have answered Mr. Gladstone. It is something, though not much, that they should have thought it desirable and necessary to do so. It shows a capacity on their part which might otherwise have been deemed absent—a capacity of being moved by fear or shame, so far at least as to wish to weaken the impression produced by his statements. This, however, is all the good to be deduced from the answer. It indicates no remorse for the past, no improved intentions for the future: least of all does it convey a shadow of exculpation from the charges which it pretends to rebut. For those who read it with any attention, any analysis of its contents would be superfluous. It is its own best refutation.

More carefully composed, more free from glaringly ludicrous inanities, less obviously absurd, but much more deliberately false, than Mr. Macfarlane's hasty effort in support of his "dearest friends," it yet re-

sembles it in this main feature, that it cannot be read without strengthening the reader's conviction of the indefensibility and atrocity of the cause which it is intended to support.

But such a pamphlet is meant not only for the few who read it with care, but for the many who read it carelessly, and the many more who do not read it at all. For those who wish to believe that the Neapolitan Government is in the right, it is something to be able to point to a few printed pages, entitled "A Review of the Errors and Fallacies published by Mr. Gladstone in his Letters," even if the pages had not contained, as they do, an exposure of one or two perfectly immaterial errors.

This must be the apology, and we feel that one is wanted, for noticing at a length disproportioned to its intrinsic merits a publication than which certainly none more feeble or shameless was ever issued, as the manifesto in defence of an inculpated Government.

The writers use the plural, not only as a form; we believe them to be plural: and, so far as being high in place and in guilt among those implicated by Mr. Gladstone's accusation can give an especial right to be heard with attention, we believe that right to be possessed by them. We shall therefore follow, step by step, with care, if with weariness, and, as far as may be, with limited indignation, this "Defensio,"—not "Populi," but (in part at least)—"Regis Neapolitani."

As was to be expected, the writers commence by complaining of the course taken by Mr. Gladstone. "Is it," say they, "to be presumed that any Govern-

ment, with however little regard for its own dignity, could be determined on changing its system, because some one had got up a clamour, and excited against it the hatred and execration of mankind *with lying accusations?*"

Not, perhaps, with "lying accusations;" but when the accusations are true, an effect may be hoped from making and *proving them*. For the rest, the pamphlet might have stopped at this point; for this phrase contains the substance of the whole defence. "Mr. Gladstone," they go on to say, "ought to have pursued a directly opposite course to that which he has taken, and one in which no one could have looked for more success than himself. He ought to have applied to the ministers, or even to the King himself, by whom, as a distinguished conservative and late minister, he would have been received and listened to with all attention and regard, as a friend is listened to. On the contrary, Mr. Gladstone has picked up among prisoners and convicts in the galleys, and possibly too," it is added with a base significance, "from *some others* whom the clemency of the King has *hitherto* rescued from merited punishment, calumnies serving as the basis of his vehement attack on the Government which would have given every attention to his representations properly offered."

This, the very first assertion of the pamphlet, shows the bold tendency to vary from fact, which characterises it all through.

What attention Mr. Gladstone's representations would have met, may be inferred from the attention which they did meet when actually made. It is well

known otherwise, and may be learnt from the letters themselves, that, having ascertained to the extent of his power the truth, he did communicate to the Neapolitan Government, in the manner most calculated to avoid offence, and through the medium most likely to be acceptable, the results of his observation as to the political state of the kingdom, and that it was not until he was convinced that no amendment could be hoped for from remonstrances delivered through the voice of a friend, that he was unwillingly driven, by a solemn sense of duty, to make public the charges which had been only trifled with when brought forward in private.

With regard to the sources of his information, viz. convicts in prisons, and those who ought to be convicts in prisons, if only for the offence of informing him; so far as the prisons go, Mr. Gladstone has been able to tell us freely what he saw, and where. Why he should not have been able to name his *other* sources of information, the insinuated threat of the pamphlet makes sufficiently clear: even if it had been doubtful before. He at least is incapable of disregarding the dictates of honour and humanity. It would be a plain violation of both to make a gift of the names of his Neapolitan informants, if any such he had, to that "clemency which has hitherto spared them."

For the rest, it can only be said, that as Mr. Gladstone's object was not to receive assurances that Poerio and others were guilty, but to ascertain whether they were so in fact: not to be assured that their treatment was humane, but to see himself how

they were treated: he sought the truth where, and where alone, he could find it. With this object he first attended their trial, and then visited their prisons. Doubtless he might have received by word of mouth the whole contents of the pamphlet, had that been what he desired. But he wished to see with the eyes which he might have had easily and pleasantly bandaged, even, had he so desired it, by a sceptre-holding hand.

However, we are promised "ample and exact justice upon the calumnies" so picked up by Mr. Gladstone in dungeons, in place of the truths which he might have received at a Court where truth is always spoken. Let us therefore proceed. We are coming, let us hope, to some disproof of the calumnies.

"Oh,"* says the writer, "if Mr. Gladstone had but come among us, not now in 1851, but in the unhappy year 1848, or early part of 1849, he would not have stayed one day, much less months, unless he preferred to order and peace the tumult and terror roused by a furious and implacable demagogy. During this time all respect for law and constituted authority was lost; the shops were closed; the good shut up in their own houses, and not safe even there; the agitators alone were seen and heard, threatening openly the ruin, not only of the monarchy but of social order. And the statute, obtained by fraud and deceit, and given by the magnanimity of the King with the utmost good faith and loyalty, was only received by them as a means to bring into effect such a barbarous and

* Rassegna, pp. 8, 9.

wicked design. From this proceeds the aversion of an infinite majority of the inhabitants of the kingdom to the aforesaid statute, and the ardent, concordant, spontaneous, and unanimous desire, expressed in a thousand ways and repeated a thousand times, that it might be abolished, and a return made to pure monarchy. *This short sketch is sufficient, according to us, to make clear the propriety and justice of the actual political order of the kingdom!*"

The main value of this quotation, given as an illustration of the logic used by Mr. Gladstone's opponents, consists in the astounding inference with which it concludes. How would all this, even were it true, make clear the "propriety and justice" of the actual political state of things; of the substitution of an absolutist for an alleged democratic reign of terror; of the imprisonments against law, the suborned witnesses, the trials which scandalize the name of justice, the despotism which by one continuous act of perjury supplants a Constitution still legally existent. Of course, Mr. Gladstone, like every other man of sense, prefers order to disorder. Must he therefore prefer injustice to justice, cruelty to humanity? Injustice and cruelty are what he has attacked, not order. We want the disproof promised of the injustice and cruelty. Is this disproof? or is it rather an admission covered, so far as may be, by verbiage?

But these statements are as untrue as irrelevant. The time selected for vituperation, of course, exactly corresponds with that during which the Constitution was in force. During the greater part of that time,

not the Liberals, but the reactionary party were in possession of the power which the 15th of May gave them, to be abused beyond imagination. We will not undertake to divide the guilt of that day. But, for whatever subsequent disorder may have existed to give colour to the flaming and false commonplaces of the Apologists, they, through their steady and treacherous efforts to destroy the existing law, are mainly, if not entirely, responsible. Mr. Gladstone, though not himself in Naples, has, on the authority of others, borne testimony to the undoubted fact of the extraordinary abstinence from crime which marked the four months after the promulgation of the Constitution.

That Constitution, "obtained by fraud and deceit, and given by the magnanimity of the King with the utmost good faith and loyalty," was, in his own words, granted by the King "in concurrence with the unanimous desire of his beloved subjects, of his own full, free, and spontaneous will."

Fraud and deceit there were, but there may be a doubt whether they are assigned to the right side; whether there was not more fraud and deceit in giving than in obtaining the Constitution, which (granted suddenly, most voluntarily, at a moment chosen with the scarcely disguised object of embarrassing the other Italian sovereigns) was meant, not so much to be maintained, as to be sworn to; like fraudulent articles made for sale, not for use. The audacious statement of the aversion exhibited by the majority of the inhabitants to the Constitution, and of the "ardent, concordant, spontaneous, and unanimous

desire for its abolition, and the return to pure monarchy," is, it may be presumed, inferred from the extorted petitions for that abolition, framed and circulated by Government agency in the latter part of 1849. It required some assurance to designate in such terms before Europe that miserable fraud, which did not even impose on Mr. Cochrane.

The number of signatures to the petitions is not publicly known, but was, no doubt, considerable. How far every single petitioner against the Constitution was influenced by fear or interest, it is of course impossible to determine. The operation of a reign of terror, whether monarchical or democratic, is of indefinite extent. It is well known that recusants of importance were hurried before the Commissary of Police, or other Government officer, and ordered, or possibly advised, to sign. We may be sure that a far greater number, if without direct menace, yet attached unwilling signatures, to avoid incurring the suspicion of unwillingness. "Your neighbours, A., B., and C. — two in this street, three in that — are in prison; several arrests were made last night, and you, too, are or were a Liberal," is a form of argument calculated to awaken serious reflections in the petitioner whose signature is requested. In short, how much weight is due to any amount of monster petitions extorted by a police, which can imprison for an indefinite period, without warrant or inquiry except its own, all can judge for themselves.

These remarks are necessarily general. An indication, however, of the extent of influences used may

be drawn from the following results deduced from official returns.

Let it be premised that the local or municipal administration of the kingdom of Naples is in form an exact copy of the French system: the Sindaco, Aggiunti, Eletti, and Decurioni, corresponding to the Maire, Adjoints, &c.

The great ruling principle of illegal interference has always neutralized, in Southern Italy, the acknowledged benefits of this system in France; a decurion who acts on his rights being liable to imprisonment for his inconvenient honesty. Still the form is there, and these municipal officers are the organs of local administration and government. This machinery was of course used for the promotion of the petitions. Now it appears from the official journals of the Government, that, among these officers, from May 15. 1848, up to nearly the present time, there have been in all not less than 1817 dismissals and changes. Of which there occurred,

In 1848 - - - - -	969
In 1849, up to August 9. - - -	843
	<hr/>
Being - - - - -	1812
And since August 9. 1849 - - -	5
	<hr/>
	1817

The date, August 1849, when the sifting was complete, corresponding almost exactly with the drawing up of the Anti-Constitutional Address. This fact, taken from the official journals, is given not so much on account of its arbitrary character, but because of its significance, as

undeniable evidence on authority, of the extent of the calculable, less criminal, and more obvious influences used. Official removals come to the surface; the stronger forces of terror work below.

Before these bodies, so mutable on occasion, the petitions, backed by all the force and fear of Government, were laid. Can it cause much surprise if the petition was generally signed by the members of the Decurionati?

The Municipality of Naples refused to sign the petition. One-third of its members was changed in a day, and the petition was signed. The principal agent in this transaction shortly after received a decoration and a professorship, understood to be the reward for this valuable service.

The official agents of the Government throughout the country signed; and among other such officers, the judges: being moved thereto, as we have understood, by a circular from the Minister of Justice to the Procuratore Generale, or legal representative of the executive in each province, calling for the signature. We shall have hereafter to explain how strictly the judges are to be classed among Government employés.

Let us relieve these dry statements with a short extract from an august colloquy. The reporter is Mr. Cochrane, the speaker is King Ferdinand. "He declared, that nothing could be further from the intention of the Government than to promote the petitions against the Constitution, and promised that official assurance of this fact which has since appeared in the Government organs." And accordingly "an

article appeared, by Government authority, severely blaming the petitions which were signing against the Constitution." A censure, doubtless severely felt by the official persons who had so grievously mistaken the intentions of the King's government; though we have not heard that their imprudent zeal was in any case visited with dismissal.

We all know what homage Vice pays to Virtue. No slighter or more transparent acknowledgment was ever tendered or accepted in that kind, than the homage paid by the thrice religious King to the Virtue which appealed to him, impersonated in Mr. Cochrane.

The next chapter of the "Rassegna," being the second, headed "Fountains at which Mr. Gladstone obtained the False Statements put forth by him,"* contains a repetition of the complaint that Mr. Gladstone obtained his information from the victims, and not from "persons who could have given him accurate ideas respecting the country;" and contains nothing more, except an irrelevant reference to Sir H. Ward and Lord Torrington, and an attempt to parallel the case of Mr. O'Brien with that of Poerio. A parallel on which we need only remark, that Mr. O'Brien was not convicted by means of forged documents, or of suborned witnesses; that Mr. O'Brien did head an armed, though a very ludicrous, rebellion in open day; and that Mr. O'Brien is not chained night and day to Mr. O'Meagher, or chained to the wall in a hospital by way of a change; but that he could from the first have had his liberty on parole, and that, being foolish

* Rassegna, p. 10.

enough to refuse his parole, he was allowed every indulgence compatible with safe custody.

Chapter III. brings us to a part of the real subject. Under the head, "Manner in which Political Offenders are reached and tried by Justice; their Number,"* the "Rassegna" disputes Mr. Gladstone's account of the illegal exercise, in multiplied instances, of the power of arrest and imprisonment by the police, of the administration of justice in the special courts, and of the number of the prisoners. On the first and most important point, it follows up an affectation of surprise at the charge, with an elaborate and lengthy statement of the provisions of the Neapolitan law, which, it is said, almost parenthetically, are scrupulously observed.

From the very first the Apologists show their tactics. They are going to say as much as possible about the law—as little as possible about its enforcement. We may abridge the argument in this way.

Mr. Gladstone having said, "The provisions of the law of Naples are salutary enough, but they are systematically perverted and violated," the answer is, "How can you say so, when the provisions of the law (which, by the way, as any person free from passion will tell you, are scrupulously observed †) are so and so, and so and so?" for six pages and more of elaborate explanation.

This deliberate attempt to throw the weight of the controversy upon the wrong point can simply be met by replacing it on its right footing.

* Rassegna, p. 14.

† Ibid. p. 16.

The provisions of the law are very well. Granted. We did not want six pages to tell us that; but we wanted something more than a mere assertion, all important, and therefore slurred and put out of sight as much as possible, that they are scrupulously observed. We repeat with Mr. Gladstone, "La legge è buona, ma chi pon mano ad essa?" The law is, in truth, systematically perverted and violated.

Be it remarked, that we are not here speaking of informers and their forgeries—of suborned witnesses and their perjuries—of the iniquities committed at the trials—of the whole machinery for the conviction of innocent men, or even of the question of their guilt or innocence. We have not yet arrived at that point; we are upon the laws which regulate the steps to be taken before trial.

On the general principle, that no arrest can take place, except in cases of flagrant delict, without warrant, Mr. Gladstone is admitted to be right. The law then goes on to provide, that, after the accused is arrested, he is *immediately subjected to interrogation, and informed of the motives of his arrest.*

Now this is a most important provision, and it is one which is practically set at naught. The *interrogatorio* itself is frequently delayed, and occasionally even omitted. It was, for instance, deferred beyond the legal period in the case of Poerio; it was, as stated at the trial, and not contradicted, altogether omitted in the case of one of his fellow-sufferers, Dono.

But the far more important rule, that the accused be informed of the motives of his arrest, is—a rule, and no more. We *know* that persons, more fortunate

than their fellows, have been arrested, kept in prison, their papers examined, themselves interrogated, re-interrogated, and released, without knowing or conjecturing why. Others lie in prison without receiving the information to which they are entitled, for indefinite periods, days, months, perhaps for years. Mr. Cochrane, a witness whom the pamphlet naturally quotes as favourable to the Neapolitan Government, met with persons who, after eight months' confinement, had never been informed of the reasons of their imprisonment. How many of them are still there, after twenty-four months more? The law was *not* executed then, and is not executed now.

The law further provides that, within twenty-four hours, the execution of every warrant of arrest be reported to the Grand Criminal Court, who will, on examining the proofs up to this point, confirm or revoke the warrant. We say that a lawyer of Naples, if asked how far this law were practically enforced, with regard to such arrests as those in question, would hardly be able to answer with gravity.

Various provisions of the law* follow, which it is not necessary to detail, framed to promote the regular succession of the various subsequent steps without unnecessary delay, as, the preparation of the *atto di accusa*, or indictment; the second examination (called *costituito*) which then takes place: the decision whether the accused can properly be brought to trial on the indictment, and finally his regular and public trial.

We say that we are entitled to consider all these

* Rassegna, pp. 19—21.

provisions as useless, neglected, and nullified, when men thrown into prison by police order can lie there not only for months, but for years, without the preparation of an indictment against them, or any regular steps being taken for their trial.

We could give selected names, and names, too, well-known at Naples; but an increased air of exactness would be ill bought at the remotest risk of adding to the sufferings which we would so willingly mitigate; names of men of high character and professional eminence, who, arrested principally in September, October, and November, 1849; now lie in prison, uninformed of the charge against them, without legal adviser, hitherto included in no known charge of political misconduct, and not only untried, but without any discernible preparation or prospect of trial: the fact being, that no charge exists, but that it is thought convenient, or satisfies revenge, to detain them.

We do not know, and therefore shall not attempt to state, how these men are treated; what amount of suffering, beyond that necessarily implied in the horrors and the companionship of a prison at Naples, it is thought just by the Government to inflict on them. Of course, it varies in different cases, but, in general, it can hardly be worth while tormenting those whom it is not intended to try, or to make witnesses of. Of one of them who lately (that is, three years ago,) was a lawyer in high practice, we have understood that he is not ill-treated "for a prisoner." Close imprisonment, separation from his family, and professional ruin, are considered sufficient punishment for an innocent man.

There is, however, one law quoted by the Apologists, in the illegal stretching and perversion of which is sought the power to neutralize all the other provisions.

We translate as exactly as we can this important part of their statement.

“In cases qualified as belonging to the province of ‘Alta Polizia,’ such as *state crimes, sectarian assemblies and factions*, the ordinary Police is also invested with the attributes of judiciary Police, and can proceed to the arrest of persons suspected of such misdeeds, even not in cases of flagrancy; detain them at its pleasure beyond twenty-four hours, and compile itself the instructions.”*

Now it is worth observing that this provision, in any case most arbitrary and dangerous, and especially considering what the “Police” of such a country as Naples means, is not, like the other provisions, drawn from the body of the penal law, but from a separate rescript of earlier date (1817), of which it constitutes the 10th article. It has been maintained with perfect justice, that this rescript, which is an instruction to the Police, an administrative act, and not a law, and valid only on the hypothesis that its directions fall within the legal powers possessed by the Police, has been long since utterly and completely abrogated by the more recent penal code, which includes no such arbitrary provision.

In this case the power was illegal before the Constitution. It is hardly necessary to add that it is in any case incompatible with, and abolished by, that

* Rassegna, p. 18.

Constitution, which is still formally, as well as by right and under sanction of repeated oaths, the law of the land. We will not, however, pause on either of these points; we will gratuitously assume that it can be referred to as a law without contradiction, and put in practice without perjury.

Then we ask, How far does it extend? Is it intended to maintain that the Police are, by virtue of this law, absolute and permanent masters of the liberty of every subject of the kingdom of Naples? "Beyond twenty-four hours." What is the meaning of this provision? If for any space of time which may please the Police, for more than twenty-four days, weeks, months (and why not years as well?), neither Mr. Gladstone nor any one else will deny, that this law has been executed with a scrupulous conformity. Strain the provision to this point, and thus, and thus only, a defence may be made for the Neapolitan Government.

If this lawless power be law, then their acts are legal under it, and all the other laws are nullified, and their discussion superfluous. All laws, however, must be interpreted reasonably; and it is obvious that, under no reasonable interpretation, can "beyond twenty-four hours" mean for two years, any more than for life. Even if common sense and the context left doubtful the limitation of the powers conferred by this 10th article of the Rescript, such limitation would be sufficiently clear from the very next article (the 11th), which the Apologists have refrained from quoting, giving thereby one instance more of a disingenuity the absence of which in them would surprise us. We supply this omission by giving it: it is to

this effect: "That within twenty-four hours of the arrest the Police must give notice of it to the attorney-general of the province; after which it must draw up the process, and send it before the criminal court with the greatest possible celerity—*‘colla massima celerità.’*"

But although it is in this provision, if anywhere, that a shade of legality is intended to be sought for the practice by which all the other provisions are neutralised, yet the Apologists of the Neapolitan Government characteristically shrink from either directly claiming this extent for the power of the Police, or explaining the extent which they do assume. They quote it, and then leave it to carry what meaning it may. We are content with having pointed out the inevitable alternative: that either the law of Naples on the point of personal liberty is the arbitrary will of the Police, extending to imprisonment for months and years of untried and unaccused men, or the series of acts which we have spoken of are utterly illegal in spite of this provision.

Nevertheless, while leaving this alternative unresolved and the law unexplained, they do not fail to execute the usual manœuvre of insinuating that it conveys a substantial answer to all Mr. Gladstone's allegations. "Can you,"* they ask for example, "believe that *citizens are arrested without written orders and at the pleasure of the Prefect of Police, when he and his agents are called by law to exercise judiciary police in the capital, to investigate and discover*

* Rassegna, p. 23.

crimes, and to secure the persons of those suspected of them?"

We answer, we do believe, on grounds which would command our belief if you denied it, what, after all, you do not venture explicitly to deny; that the Police practically acts without the check of any law whatever: that it imprisons at its own arbitrary will, sometimes with written orders, sometimes without taking the trouble to give any, persons, of number without limit, for time without limit, frequently without informing them of the nature of the charges against them, without check from any other branch of the magistrature, without proceeding regularly towards their trial, often without ever intending to try them.

We believe, and we shall adduce instances of the fact, that, in the cases where trial is intended, it treats these prisoners as Mr. Gladstone has described, using mental torture for the purpose of extorting suggested confessions or false evidence to implicate themselves and others. And in consequence of these acts, notoriously done by the Police, we know that there is no man, however quiet or orderly in his demeanour, of suspected political opinions, who does not feel that the Damocles' sword of a police arrest is continually hanging over him; that there is no man to whom, so arrested, the consciousness of most entire innocence would give an assurance of even ultimate safety; no man to whom such an arrest might not be the commencement of an indefinite imprisonment of months or years, of mental and physical misery, perhaps never to end in trial.

There are reasons enough for believing all this independently of your Apology. But we believe it not the less but the more, because, while scarce venturing on a denial of these facts, except as an inference from the laws which should make them impossible, you have yet pointed to this one law, of which you do not define the operation; simply because, placing in the hands of the Police an exceptional power, it admits of being strained in the direction of acts which, stretch it as you will, it is inadequate to cover.

With regard to the constitution of the Special Criminal Courts, there is a point worth noticing, *because* omitted by the pamphlet.

Mr. Gladstone's statement is as follows:—"When a Court sits specially, it is with a view to despatch. On these occasions the process is shortened by the omission of many forms, most valuable, as I am assured, for the defence of the prisoner."

Now, this is a point on which Mr. Gladstone is, technically, not quite correct; and, in consequence, he has not done justice to the strength of his cause. Thereupon the pamphlet, having, with much affectation of scientific correctness, given an elaborate account of the whole procedure in a criminal trial, asserts, that the process in a trial by a Special Court is the same precisely, with the exception that for such Courts "*the terms are shorter, both for the presentation of a petition to the Supreme Court of Justice to annul the decision of special competence*"* (i. e. the decision by which the Criminal Court constitutes

* Rassegna, p. 21.

itself into a Special Court); "and also for presenting certain requisitions, and giving the list of witnesses." We call attention to the exact words marked in italics, as they cover an equivocation. And, growing jocular upon the strength of their refutation, "Can it," say they, "be seriously maintained, that the case in which eight months are occupied, twenty-five days of which were devoted to the harangues of the counsel and the perorations of the accused, was *hastily* decided?"*

Haste and delay are comparative terms, and the same tribunal which unjustly delays at one time may unjustly and inhumanly hurry at another. To prevent delay, Leipnecher was carried, delirious, dying, and within forty-eight hours of his actual death, to the bar of the Court; though he and his fellow-prisoners had been left in prison for months and years untried. To prevent the loss, if but of half a day, Dono, another prisoner, was, after hours of remonstrances and struggles, forced to the bar while suffering excruciating torment from a violent access of a chronic malady to which he was liable.

But waiving this point, there is one unnoticed difference between the Special and ordinary Criminal Courts, which in a professed correction of Mr. Gladstone might have been pointed out, and has not been. It consists in the comparative relation of the Special and ordinary Courts to the *Suprême Court of Justice*. A little explanation is necessary.

The *Supreme Court of Justice* corresponds to the

* Rassegna, p. 25.

French Court of Cassation. It is not, properly speaking, a Court of Appeal from the ordinary Criminal Courts ; that is, it does not re-try the case from the beginning, nor receive evidence of new facts. But a petition can be advanced to it against any and every decision of the ordinary grand Criminal Courts considered legally ; and this not merely upon the final, but upon any intermediate decision as to the admission, the rejection, or the testing in various ways of evidence, the legality of the conviction and the sentence, and, in short, any point which could arise of a legal character. From the Special Courts, when once constituted, *no such petition whatever* lies to the Supreme Court. The *only* petition is that particularized in the Defence, viz. of special competence, *i. e.* whether the Court rightly declared itself a Special Court.

And this petition, for which it is, with an intentional confusion, stated *a shorter term is allowed for the Special Courts*, is of course a petition which lies for them *alone*, and is inapplicable altogether to the ordinary Courts, while every other petition from these Courts is inapplicable to the Special. During the discussion of a petition before the Supreme Court from an ordinary Court, the proceedings are suspended. Such a petition for annulment may then certainly be said to be, what Mr. Gladstone calls it, "a form of great value for the defence," though it is much more ; it is a substance, not a form : it is the most substantial security possible against illegal decisions, a security how much needed in a country so unhappy as to see a Navarro

on the bench, judging Settembrini and Poerio at the bar.

An instance taken from the trial itself will make clear our meaning and the vital importance of this distinction. By the law of Naples, the evidence of a "denunziante salariato," or informer in regular police pay, is *entirely inadmissible* at the public trial. Settembrini, as Poerio had before done, alleged that Jervolino was a "denunziante salariato," and asked to be permitted to call witnesses to prove that he was in the monthly receipt of twelve ducats salary from the Police. The exclusion of Jervolino would have annihilated the case at least against the principal victim. The application, therefore, was most momentous. Of its successful issue, if only the proof was admitted, there could be little doubt. The Court *rejected* the application to prove the fact by witnesses, and ordered the applicant to prove it by *documents*. The only possible documents, it was replied, which could prove such a point, are the police records. The Court cannot have intended to require an impossible proof: the Court, therefore, is requested to direct their production. The Court deliberated, and *refused* the application.

No more important decisions than these were given in the trial. They exposed, and in fact caused, the prisoners to be convicted by evidence which, had its nature been examined into, there was every reason to believe the law had deliberately excluded. Their substantial injustice and harshness need no comment. They were equally exclaimed against as glaringly

illegal; and probably were so. In the case of an ordinary Court their legality would have been tested at once by a petition to the Supreme Court for their annulment. The decision of the Special Court was final, and *this* decision sent Poerio to Nisida.

Similar occasions repeatedly occurred in the course of the trial, of decisions protested against by the prisoners and their counsel as flagrantly illegal; at each and every one of which a petition for annulment would have been interposed in the case of an ordinary Court.

Let it further be observed that a decision of the Supreme Court of Justice against one of the lower Courts not only sets aside that particular decision; it sets aside from that point the Court also, and sends the rest of the case before another tribunal. Had therefore Navarro and his colleagues sat as an ordinary Court, the decision of the Supreme Court, annulling the refusal to admit evidence in proof that Jervolino was a paid informer, would not have silenced him only; it would have placed the Executive under the doubly difficult necessity of finding another Navarro, as well as another Jervolino.

This distinction, all important, imperfectly apprehended by Mr. Gladstone in the words quoted from him, and most deliberately omitted by the pamphleteers in their professed correction of his statement, is, there can be no doubt, *the* real distinction between Navarro and his fellows sitting as an ordinary Court, and the selfsame men, with two added to them, sitting as a Special Court: and being the real distinction, it is moreover, there can be no

doubt, the real reason why, after seventeen decisions of the Supreme Court had declared Special Courts to be altogether illegal, as having been abolished by the Constitution, the Government yet insisted on their re-establishment, and finally succeeded in extorting from that Court a decree favourable to their views.

We make no apology for devoting so much space to points of legal procedure, though many may find them uninteresting. Individual cases of cruelty and falsehood strike more, and are far more easily apprehended, but indicate far less the real source of the evil. It is worth observing, that the outrageous wrong doing which has signalized these trials, is felt most strongly by the class at Naples most competent to appreciate its extent — the members of the bar. That profession has done its duty on the occasion well; so well, that it has recently been thought expedient to discourage, by direct threats, the honourable readiness to undertake the defence of political prisoners.

On one point, however, we do arrive at an absolute denial and counter-statement — the number of the political prisoners. And this, it is worth observing, is the one point upon which the Government of Naples alone can have the means of perfectly accurate information, and upon which, therefore, it may put forth any statement it pleases, without its being in the power of any one to prove the exact amount by which such statement varies from the truth. Those who decline to accept as conclusive the official statement, know that they must be content with an approximation, though it may be a pretty close one. The whole point, as originally stated by Mr. Gladstone, is of

comparatively secondary importance, except as an illustration of the fearful extent of the prosecution, and of the way in which it strikes at a whole class or classes of the community. And, considered in this view, the return of 2024 prisoners, the number *admitted* by the Neapolitan Government, is a sufficient illustration.

Indeed, it is worth remarking, how in the discussion between 2000 and 20,000, the frightful amount of suffering admitted by the smaller number is forgotten. Yet if we look back for anything like a historical parallel to 2000 prisoners under process on charges of political offences of the most serious character, we cannot, taking into account the difference of population, stop short of the times of Fouquier Tinville in France, or Jeffries in England.

That the prisons are crowded with political prisoners is well known; and could we know the utmost number which the prisons would admit compatibly, not with comfort, but with the preservation of life, and deduct from it the numbers of those confined for common offences, we should be not far off the number of prisoners on political charges. We shall be first content with showing that the official statement of the Neapolitan Government is not to be trusted; that it, at any rate, is far from the actual truth; and that the truth remains a subject of melancholy conjecture, much as it did before.

In the first place, it might be remarked that the return is limited to the kingdom of Naples, whereas Mr. Gladstone speaks of the kingdom of the Two Sicilies. It is already known that 700 prisoners were,

at the commencement of this year, in Palermo alone. It is not until afterwards that Mr. Gladstone states that he will in future speak of the continental dominions only, and he never returns to the question of the number.

Secondly,—The return 2024* is made up of two classes of prisoners. Those who are detained at the disposal of the Police, 205, and those who are "*presenti in giudizio*" before the grand Special Courts, 1819.

Now, there are in the kingdom of Naples local justices, "*giudici di pace*," employés of the Government, who have the power of trying and sentencing, for all offences of whatever kind, not amounting to what are called "*delitti*," and punishable with imprisonment up to *five years*. There are between 500 and 600 such judges in the kingdom. The Grand Criminal Courts, and in this case the Special Courts, take only the more serious offences. Now, when the head is 2000, what is the body? When there are so many persons charged with offences touching life or life-long liberty, can the minor fry be few? Is there so much treason and *no* sedition?

Of those persons in prison on account of political charges which will bring them before these judges, or in course of regular process or trial before these judges, the return does not include *one*.

Again: when the number of political prisoners in the kingdom of Naples is mentioned by Mr. Gladstone and others, it is perfectly clear that not merely the untried are meant, but the whole number of such

* Stato Numerico, No. 1., at the end of the Rassegna; given also by Macfarlane.

prisoners, tried or untried; whether they be undergoing such cruelties as Pironti underwent before conviction, or the cruelties which, as one of what the Apologists call "slaves of punishment," "*servi di pena*," he is now undergoing. Of all such cases of convicted prisoners, up to the 18th of June last, whether before the Grand Special Court for major offences, or before the judges of the peace for minor, the return of 2024 does not include *one*. It does not include Poerio or one of his comrades, or one single person in their position. It includes those only still arbitrarily detained by the Police, or those "*presenti in giudizio*" before the Grand Criminal Courts. In excluding those already tried and sentenced before those courts alone, it excludes at least two-thirds of the number it includes.

Taking together all these things, we see that, let the return be ever so accurate, its value, as a representation of the real state of things, is absolutely *nil*. It is, when closely looked at, only one part; though we are meant to take it, as superficial readers through Europe no doubt have taken it, with more or less belief, for the whole.

We then come to the Police return*, amounting in all to 205, of whom 77 (!) are stated to be in Naples; making, with 223 "*presenti in giudizio*," the number of 300 only in that city and province.

Those who have put this statement forth, did so certainly not with the hope that it would be believed by those who think them capable of falsehood; and

* *Stato Numerico*, No. 2., at the end of the *Rassegna*; given also by Macfarlane.

we may therefore omit, as quite unnecessary for their information, the plain expressions of utter disbelief and contradiction which it naturally suggests to the pen.

We notice, first, that the return of those detained by the Police has no date whatever. It may, for ought that appears, be the selected minimum at different times, for each prison, of the number so detained, since the political reaction began.

When were there seventy-seven political prisoners only in Naples, detained at the disposal of the police?

When only two (and how divided those two) at Pozzuoli and Castellamare?

When only nineteen at Salerno?

When only ten at Reggio?

We have a right to say, that this omission alone destroys the value of the return, which it at once renders incapable of disproof, and divests of all title to credit.

Again: the whole number of prisoners in Naples appears to be 300. Now, even taking the returns shown in 1849 to Mr. Cochrane as accurate, there were then in Naples 664 political prisoners, or more than twice as many as are acknowledged at present. This, we venture to say, nobody in all Naples believes.

We shall now give a few isolated facts on good authority, contradicting or showing the improbability of separate parts of the numerical statements of the pamphlet; premising that our information must be taken for what it professes to be, and not more: that is, not absolutely exact, but as good as could be pro-

cured, and to be relied on in the main. In Santa Maria Apparente there were, at Mr. Cochrane's visit, only 97 political prisoners, there being then 664 in all Naples. Now, a short time since, there were in the prison of Santa Maria Apparente 250 political offenders. There were at the same time more than 60 prisoners in St. Elmo and Castel del Ovo; these, with Santa Maria Apparente, making more than the number stated.

We have before us a list of names and cases of political prisoners in the prison of St. Francesco, from which it appears that there were in that prison, at a period later than August 1851, at least 116. Of these some had been arrested in May 1848, many in 1849. Of the 116, not less than *forty* had been, by the decision of some Court, set permanently or provisionally at liberty, and were detained in prison by the Police! There were at the same time 180 at the Prefettura di Polizia; a number however which, on the same authority, varies every night. We have already more than doubled the number of political prisoners admitted by the Government *in Naples*, without counting those in the Vicaria, or elsewhere.

The pamphlet states the number in the province of Terra di Lavoro to be 80.* Now, Capua is in Terra di Lavoro; and a short time since there were, in the prison of Santa Maria di Capua, near 100 *untried*, exclusively of 13 already condemned. There are several other prisons in the province, at Nola, Piedimonte d'Alifa, and two other places; each containing political prisoners.

* Stato Numerico, No. 1.

Again, it is stated, in Calabria Ultra 1^{ma}, there are 344 prisoners for trial before the Special Court, and in the capital, Reggio (without date), 10 detained by police, together 354. From a list which we have seen it appears that there are three prisons in Reggio, San Francesco, Castello, and Tribunale. In the various divisions of the first of these there were, a short time since, about 720 political prisoners; in the second, 150: in the third, a few for more trifling charges. Taking the whole together, 870 would be the number which would replace the 354 of the pamphlet; a number, moreover, greatly exceeding, for the capital of the *one* Calabria, the whole number (about 700) admitted for all the *three* Calabrias together.

We have now to notice a point which, in spite of the gravity of the matter, may raise the smile which follows a ludicrously flagrant instance of self-detected roguery.

Having given, in a list marked No. 1., the statement of prisoners under process before the grand courts (distinguishing the separate number in each province), the total amounting to 1819, and that of those detained by the police at 205, making a total of 2024, they add, "*from this number are to be deducted those who have been admitted to the sovereign indulgences of 30th April, and 19th August, 1851, according to the statement No. 3.*"*

Now, on comparing these two lists, No. 1. and

* Stato Numerico, No. 3., at the end of the Rassegna.

No. 3., we find that in No. 1. Principato Ultra is set down as containing under process - 4 prisoners.

From which are to be deducted the number in this province admitted to the sovereign indulgences, as stated in No. 3., viz. - - - 16

Being a result of *minus* 12

In Abruzzo Citra there are - - 6
From whom are similarly to be deducted as admitted to mercy - 8

minus 2

In Terra d' Otranto - - 8
From whom to be deducted - - 11

minus 3

In the whole, for these three favoured provinces, the laws of numbers are suspended to that extent, that out of eighteen prisoners thirty-five are pardoned. This is a mystery for faith, not for reason. The laws of nature are suspended for the sacred image at Rimini; but for King Ferdinand are set aside the yet more immutable truths of mathematics. It must be admitted to be a rare example, a more than miracle of mercy, vouchsafed by that inexhaustible and infinite clemency of which we hear so much.

The return of the Government, therefore, is evasive, incomplete, and, as a representation of the real state of things, totally unworthy of credit. What is the truth? We have said already that it is not possible to speak with certainty. But we give, without vouching for it, a statement which, on high

authority, we believe to be entitled to as much credit as the case admits of; it moreover accords nearly with one already published, but derived from a different quarter. The number *condemned*, which is an ascertainable fact, may be considered pretty accurate; the number now in prison, or having been arrested, is necessarily more vague: but the concurrence of the two statements, as well as other circumstances, make us think it not very far from the truth.

Condemned to "ferri" in the "Bagni" - - -	513
" " in Presidio - - -	462
Others in the provincial prisons, condemned to Bagni or Presidio, but not yet removed thither - - -	250
Condemned to Ergastolo - - -	37
	<hr/>
Making a total of	1,262
condemned to the most serious class of punishments.	
Exiled to islands under judicial sentence, more than -	700
Exiled without process, including the soldiers returned from Venice and the volunteers from Lombardy -	6,000
Number, whether tried or untried, not included in the above, who have been or still are in prison from May, 1848, to September, 1851 - - -	15,000
	<hr/>
	22,962

The number in exile is supposed to be about 3000; the result of the whole would be that more than 25,000 persons have been, in one way or other, struck by the present political system.

So much for the number of political sufferers. Precision on the point is not only unattainable, but would be unimportant except for the increased importance given to the subject by the falsehood of the professed precision of the apology. But that falsehood is clearly enough exposed, and the exact number matters little. The substantial fact is the

existence of a tyranny which, grasping as many as it pleases, as it were by handfuls,—

—— “Rejects the lore
Of nicely calculated less and more.”

Take one single captive, counting wretched nights and days of an unjust imprisonment, and you have a great misery and a great crime. Whether there are 5,000, 10,000, or 20,000, such makes little difference in the guilt, and none in the interest which Nemesis is accumulating. She, too, is no exact calculator, and is apt to arrange long-standing accounts with sweeping drafts that more than cover the balance.

In Chapter IV. “On the Treatment of those confined in the Prisons of Naples,”* the writers of course deny the charges of Mr. Gladstone, and yet more boldly refer to the counter testimony of another English writer:—“Mr. Cochrane, who paid a visit without previous notice to the prisons, received a more favourable idea of their management.”

This reference is surely made in the premature hope that Mr. Cochrane’s book and testimony are totally forgotten, and that no one will test it by referring to them. Mr. Cochrane describes the state of the prisons, in terms in no way short of those used by Mr. Gladstone, as filling him with the deepest compassion and horror, and as mainly prompting him to make to the highest quarter that appeal, “in answering which,” says Mr. Cochrane, innocent of the bitter satire, “nothing could be more noble, more generous, more sensible, than the King’s *language*.” With all

* Rassegna, p. 26.

those promises, however, which, as being highly to the King's honour, Mr. Cochrane has recorded, with a candour approaching to simplicity, in the very same page which records their entire non-performance, we have nothing to do at present. The Neapolitan Government have called him as a witness; they are welcome to the advantage of his testimony.

"It would be difficult to convey an idea of the horrors of the place: a damp, fœtid, noxious vapour filled every cell; many of the windows by which the light entered had no glass in, and the wet mist penetrated through the close bars. The mass of the prisoners were dressed in the most filthy rags, and their features were fearfully degraded. But mingling with these, were men of far different character and appearance. Hustled by the crowd of vagrants and scoundrels might be seen men who, at one time, swayed the destinies of the kingdom, and were honoured by the royal confidence. These men withdrew into their rooms, where some ten or twelve slept together, and there they told me the tales of their misery. Most of them, as at the Santa Maria, had been eight months in prison without the least appearance of trial; and some did not know of what they were accused. It was distressing beyond expression, to see gentlemen of education compelled to mix with the refuse—the foul refuse—of the galleys."

This was the *better* story of the Vicaria. We shall soon see the worse.

"Can any one believe," the Apologists go on to say, "*without any* positive fact(!) that the official physicians do not go to visit the sick prisoners, and that

the prisoners, with death on their countenances, force themselves up the stairs of that charnel house of the Vicaria?"*

Perhaps not; but from the *positive fact* that Mr. Gladstone *saw* the prisoners, as he describes them, with death on their faces, toiling up the stairs from the lower regions of the Vicaria to see the physicians.

Besides this "can any one believe," Mr. Gladstone is confuted by an eulogy on the physicians and religious orders of Naples, and by the fact that the latter frequently, and even the Archbishop of Naples himself some months since, visited the so-called "charnel house;" that he "shed on the hearts of the prisoners the balm of evangelic precepts and of his own beneficence, and by his presence in this *pretended 'bolgia,' gave, by anticipation, the lie to the lying descriptions of the author of the Letters!*" † Such is the honesty, such the logic, of this defence. Because the benevolent archbishop deigned to visit these wretched places, the descriptions of their miseries are false. Just so, we presume, the presence of Howard in the horrible dungeons which he reformed, proved that they stood in no need of reformation.

But it is a mockery to talk of argument. What is wanted is not argument, but to draw attention from the real subject, and to fix it on the glory of benevolence around the head of the archbishop, and, with the aid of phrases on his "evangelic beneficence," &c., which we are far from disputing, to shed a kind of misty halo of words around the mouth of this

* Rassegna, p. 27.

† Ibid. p. 28.

“bolgia” (“we thank thee for that word!”), and prevent curious humanity from looking in.

Further on, among other atrocities, Mr. Gladstone described the situation of Baron Porcari, shut up in a horrible dungeon called the Maschio of Ischia. This the Apologists say is impossible; for the Maschio of Ischia is not only not a dungeon, but an open *place d'armes*, the highest place in the Castle of Ischia. Here then, at least, they have corrected an inaccuracy of Mr. Gladstone's. But they have omitted, what is more material to the real truth, that there are immediately under the Maschio, properly so called, dungeons of the kind described by Mr. Gladstone, known, we believe, as the dungeons or prisons of the Maschio; and that in one of these Baron Porcari is confined.

They state, too, that the Vicaria has *no subterranean cells*.* But though the lowest story of the Vicaria is not exactly underground, it is—let Mr. Cochrane again tell us:

“We found ourselves in a place which it would require the imagination of a Dante to paint.”† . . . “I

* “Below the level of the ground,” is Mr. Gladstone's expression, which is not synonymous with subterranean, and which would be borne out if the floor were deeply sunk below the level of the ground. He mentions a window, which shows that he does not mean altogether subterranean. See note on next page, case of Pironti.

† Yes, “*Luogo è in inferno detto Malebolge*.” A “*bolgia*” such as his terrific verse alone could describe. By a striking, and, so to speak, almost judicial coincidence, Mr. Cochrane, the witness whose testimony the Apologists invoke, has, by the inadequacy of common language to paint these dreadful places, been driven to the *self-same allusion* which they have employed to indicate the exaggeration of Mr. Gladstone.

could understand that, if this had been visited first, I should have considered the upper floor a comfortable residence." The prisoners were "evidently always addressed and treated as brutes." "It was human life in a living tomb, assisting at the spectacle of its own decay—its own rottenness. The atmosphere was *as thick as in a London fog*, from the horrible exhalations!"

They further state that, at the accession of the present King, all the subterranean dungeons known as *criminali* were disused and walled up. This is *true*. They omit to state that, as we have heard on good authority, some have recently been re-opened and re-occupied by political offenders, not in the Vicaria, but elsewhere; and that one such prisoner, who went in sane, came out insane, and is now in a madhouse.

They then give a contradiction, or at least what is intended to convey one, of Mr. Gladstone's notice respecting Pironti, which we quote below.* They do not meet it directly; but their evasive and round-about statement comes to this, that Pironti, after the conclusion of the speech of the Procuratore-Generale,

* "From the 7th of December last to the 3rd of February, Pironti, who was formerly a judge, and is still a gentleman, and who was found guilty on or about the last-named day, spent his whole days and nights, except when on his trial, with two other men, in a cell at the *Vicaria*, about eight feet square, below the level of the ground, with no light except a grating at the top of the wall, out of which they could not see. Within the space of these eight feet, with the single exception I have named, Pironti and his companions were confined during these two months; neither for mass were they allowed to quit it, nor for any other purpose whatever!" — *Gladstone's Letters to Lord Aberdeen*, Letter I. p. 13., 11th ed.

demanding the capital condemnation of himself and five others, "requested the Court to give orders that he might not be confined so as to want facilities for preparing his defence;" that the Court in answer referred him to the regulations of the prisons; that Pironti was "not removed from the place in which he had been in the course of the discussion of the cause," and that he did prepare a long defence, which he read to the judges "calmly, as is his custom."* Therefore, it is assumed, he having been able to prepare, and permitted to read calmly, his defence, could have nothing to complain of; and "Mr. Gladstone has changed a *fear* expressed by him into a *fact* which had happened."

We regret to state that we have reason, on the best authority, flatly to contradict all that is positive in this equivocating assertion. Pironti did, on the 7th December, after the conclusion of the "Requisitoria" of the Procuratore-Generale, express both a fear and a request: a fear that he might be removed from the prison called "ai Nobili" to another; a request that he might not. The Court replied, that the matter did not lie within its province. The Commissary of Prisons said something to the effect that the prisoners should be properly treated; and Pironti and others *were removed* to a cell of the character described by Mr. Gladstone. "He could not," say they, "be put in a subterranean cell, because there were none such at the Vicaria." We admit that his cell was only in the lower circle of the Vicaria. It was not in a worse place than Mr. Cochrane's "Malebolge."

* Rassegna, p. 30.

At last, in Chapter V., we come to the main point, "the condemnation of Poerio and his co-accused."* Let us see what this chapter contains.

It begins with an affectation of wonder that Poerio's statement "in defence," respecting the proceedings connected with his arrest and confinement, should be taken by Mr. Gladstone as the ground of his charges. "Do you not see that this is just the *defence*?" "Might you not as well put the *accusation* against it, and the *decision*?"

Now, Mr. Gladstone tells us exactly the source of his statement, and it was the only possible source. Where else, except in the uncontradicted statements of Poerio and his fellow-prisoners, was Mr. Gladstone to look for the illegal facts connected with their arrest,—the attempts to make them commit themselves, the forgeries too clumsy to be produced on the trial, the falsehood, the whole work, in short, of that detestable, soul-torturing, and lie-manufacturing engine, called Alta Polizia, of which Peccheneda now holds the handle?

Were these things likely to find a place in the accusation? Were they negatived in the sentence? In the evidence they might have been found, had Poerio been permitted to adduce the proofs he offered—to call, for instance, and examine Santo Vito, who had been employed to extort confession from him by telling him that the Government knew all, but that if he would confess, his life should be spared. But the Court knew its duty too well to permit Poerio to prove such facts.

* Rassegna, p. 32.

Was the allegation of the forged letter of Dragonetti disproved? Was it denied? Was a shade of doubt thrown on it? Did, or does, any one doubt it in the smallest degree? Was the attempt to intimidate Carafa into giving false evidence against Poerio disproved? Was any one of the many similar allegations openly made at the trial disproved? Was one of them doubted?

All these statements stand as part of the proceedings, uncontradicted, undisproved, incapable of disproof, to be received, perhaps, in spite of authority, with an inevitable shade of scepticism by the citizens of happier lands, but known to be only too possible and too true by the countrymen of Pironti and Poerio.

From this preliminary point the Apologists come to the question of the judges, whom Mr. Gladstone has charitably stated to be rather slaves than monsters. The slavery of the judges is of course denied; and in addition to unmeaning eulogy, they advance on behalf of the bench on which Navarro sat as president, that there was actually some difference of opinion between them with respect to the trial of his companions. On some points they were unanimous; on some the majority convicted; on some it acquitted. Can there be a clearer proof of freedom? In the case of the *Unità Italiana*, "of eight judges, four had the firmness (*sic*) not indeed to acquit certain of the accused, which they could not do where the proofs were speaking, but to follow the dictates of their own moral judgment, 'del proprio criterio morale,' and of the science of law, giving to their guilt the appropriate definition, and such as saved their lives and

subjected them to another punishment."* This is actually word for word advanced in proof "how far the magistracy goes in obeying its own conviction *rather than* any external influence." A most clumsy admission that the judges had to resist an external influence, and that external influence was *for death*: a blunder into truth, which may be taken as a compensation for multiplied hypocrisies and evasions.

Mr. Gladstone is undoubtedly right in his view of the Neapolitan judges. The eight who sat on the bench were by no means eight Navarros. Some were capable of pity, and some of shame. But the judicial body is, as he states, very ill paid, and very numerous, holding a position in no way parallel to that of English judges; not even, *generally speaking*, formed by the selection of advocates from the bar, but constituting, as it were, a separate class, and that a class of removable Government officers, dependent on Government for bread, and losing it by dismissal.

In each of the fifteen provinces of the kingdom of Naples there is, as a general rule, one bench of civil and another of criminal judges, varying in numbers from eight to five. In Naples there are three criminal courts and three civil, containing respectively twenty-one and twenty-four judges, whom, in addition to other means of influence, the Government exert, in case of need, the power of shifting about from court to court. In all there are something like 300, of whom about 130 are criminal judges, without counting the justices of the peace. Dismissal is of course

* Rassegna, pp. 34, 35.

the most potent weapon, and it has been unsparingly exerted.

Mr. Gladstone has referred to the case of Reggio ; but perhaps a proof more emphatic than any isolated fact is furnished by the following return, compiled from the official journals, of the number of recent changes by dismissal or degradation, mostly on the criminal bench. Let it be premised that the Chamber was dissolved on the 13th March, 1849, and that by an ominous connexion and consequence, *Navarro* was summoned from Avellino to preside in the Criminal Court at Naples on the 18th March, 1849. There was work for the workman to do. But, first, his tools wanted altering and improving. Thereupon followed the changes.

From 26th March to August 1849 :—

Naples: Dismissed, Supreme Court	-	3		
		Criminal Court	-	5
		Degraded	-	6
Provinces: Dismissed	-	-	5	
				—
				19

The present Ministry came in on the 7th Aug. 1849.

From 8th August to 30th December 1849 :—

Naples: Dismissed, Criminal Court	-	3		
Provinces	-	-	12	
			—	
			15	
			—	
		Together	-	34
				—
In 1850	-	-	-	17
				—
				51

Being altogether a change of two-fifths of this multitudinous bench in the course of less than two years.

On the general conduct of the trial by Navarro, on the glaring partiality not only of his decisions but his demeanour, on his inhuman cruelty in the case of Leipnecher,—not a solitary instance, though the only one quoted by Mr. Gladstone,—on his repeated rejections of tendered evidence, on his scarcely underhand aid to the witnesses in identifying particular prisoners, and, finally, on the monstrous fact that he whose life, according to the accusation, was aimed at by the accused, sat as president on their trial for their lives,—on all this the Neapolitan pamphlet contains not one word of remark, exculpation, or denial. It is scarce needed. *Habemus confitentem reum.* Yet to show that Mr. Gladstone's instances of this man's conduct are *not* exceptional, nor the worst, we will give two others from the trial of the *Unità Italiana*.

A witness, a soldier, had stated that he had gone from Cocozza (one of the accused), to the house of another, Brancaccio, who *wished to make him swear union between the soldiers and the people*; a piece of evidence which might seriously affect these two persons. Cocozza rose, and demanded that the witness should recognise him, but imprudently remained standing; the witness turned round, and of course said, "That is he." Brancaccio, remaining seated, made the same demand. The President replied, "*When a prisoner addresses the Court, he ought to stand up.*" Brancaccio then asked that the witness

should state where his house was, which he could not do.

Hearsay evidence is admitted by the criminal law of Naples ; and if an argument in favour of our practice of absolutely excluding it were desired, perhaps none stronger could be found than is furnished by this trial. No form of evidence was more common than this : "I heard from D. that there was a sect of which A., B., or C. were heads or members." A vague and dangerous indication, even as coming from an honest witness, when we consider that though in itself obviously insufficient to convince the mind of an honest judge, even such a fragment, being after all a fragment of legal evidence, may float the conscience of a Navarro. What then shall we say, in the case where the recollection or invention of the witness on such a point is prompted from the bench, and supplied with the names of the accused at the bar ? A witness, dull or unwilling, or really having nothing to say, had been assisted by the President into giving some evidence of the above kind. He had heard of the sect, of certain persons belonging to it, and of two as leaders. Who were they ? He could not recollect. Repeated attempts having been made without effect, the *President at last asked him, WERE THE names Poerio and Nisco?*" The witness answered, "Yes." Poerio, with bitter irony, thanked the President for assisting the defective memory of the witness. Nisco did not give up hope. He entreated that the witness might *now* again be asked what were the names. It was done. He

managed, with an effort, to recall Poerio, and there he stopped; he could not recall the name of Nisco!

Some surprise has been felt that a Government, with such a task before it as these trials, should have held them in public at all. The last and most universal requisite of the law, publicity of trial, could not be altogether set aside; its evil effects — evil they must be for such a cause — could only be mitigated by limiting it as far as possible. A publisher in the interest of the Government had, in the first instance, applied for and received permission to take shorthand reports of the proceedings. Representations were made (as is believed, from the Bench), which caused this truly rash permission to be withdrawn, and all reporting prohibited; a circumstance to which we owe the impossibility of obtaining more than outlines, however accurate, of the proceedings. In accordance with the law, the doors of the Court were open; but here, too, the police had its part. An Argus-eyed espionage watched at the threshold and within. It was of course dangerous to show sympathy; it was soon felt to be unsafe for those on the wrong side even to attend. We have heard, on good authority, that painful and general as was the interest, the Court was frequently almost kept empty by this salutary terror, while the foreigner, whom it did not reach, would find himself seated almost alone on a bench, with none but police spies around him.

Yet we are struck more forcibly than ever with the infinite value of a publicity thus restricted; for to it, after all, we owe such accounts as have reached

us ; to it, too, we owe that an English statesman saw and pointed to these iniquities ; and that all Europe, fixing its gaze in the direction of that pointing hand, raised something like a blush of shame on the cheek of a perjured despotism, and drew from its hardened lips this faltering, though impudent and self-convicting, denial.

Having, however, thus proved the freedom and probity of the Neapolitan bench, the writers go on to discuss Mr. Gladstone's assertion that Poerio's character is high, and his name dear to his countrymen. It is a matter of course, and not worth notice, that they should thereupon represent Mr. Gladstone as having claimed that there should be "two weights and two measures" for different classes of offenders. But they cannot leave Poerio's character unassailed ; they attack it in a note. And what do they say ? Nothing from themselves ; they revert to another source. We must quote, or we shall not be believed.

"Dear!—to whom? To those whom, with his guilty machinations, he has drawn into sin, or those who see in him the standard of a party? We will not say *anything, as it will be better to hear his life and culpability from the mouth of another Englishman.*"*

And then, having nothing whatever to say for themselves, they actually quote from Mr. Macfarlane. We will follow their example, not to prove Poerio's character, but to illustrate theirs. Mr. Macfarlane's vaguely abusive account of Poerio comes to nothing whatever, even if its facts were true. But they know it to be incorrect, and therefore they

* Rassegna, p. 37.

quote it. The quotation is in French, from the *Univers*: "Les écrivains sont unanimes dans leurs convictions de la culpabilité de Poerio. J'ai causé avec des Anglais qui avaient résidé dans le royaume de Naples, non pas un petit nombre de semaines, comme M. Gladstone, mais un grand nombre d'années, et je les ai trouvés parfaitement convaincus de la culpabilité de l'avocat républicain. Permettez-moi de vous donner un aperçu de la vie de Carlo Poerio. Il paraît que l'ami constitutionnel de M. Gladstone trouva que le climat de son pays était trop chaud pour lui en 1830; qu'il émigra à Paris, où il fraternisa avec Mazzini; qu'il écrivit des articles dans son recueil *La Jeune Italie*; qu'à son retour à Naples il reprit sa profession de révolutionnaire, et que tout le ministère dont il faisait partie était composé de républicains avérés, tels que Pepe et Saliceti," &c.

Now Poerio did not fly from his country in 1830, never was in Paris, never fraternised with Mazzini, never wrote in *La Jeune Italie*; Pepe formed no part of the ministry to which he belonged. The writers, his countrymen, know all this. Mr. Macfarlane merely recklessly blunders; and they, not daring to state mere inventions on their own authority, deliberately put forth his blunder, making it thus their falsehood by adoption: all to throw over the name and character of Poerio a revolutionary tinge, to make the charge of belonging to a sect seem probable in the friend and collaborateur of Mazzini, and thus, by falsifying every fact of his life, to create for the conduct of the Government towards him that palliation which it needs.

Let the trifling and miserable artifice, too, be observed, of leaving out the previous sentence of Mr. Macfarlane, and beginning at the words "Les écrivains," which would naturally mean the body of writers for the public — all at least who have written on the subject — the fourth estate generally: so that Mr. Macfarlane would appear to state that all such authors agree in holding Poerio guilty. What he does say, as any one may see by referring to his pamphlet, is, that he has seen certain private letters "of which the writers" are unanimous in their conviction of the guilt of Poerio. Was it worth while, in defending so vast an iniquity, to stop for so mean an evasion? The writers of the pamphlet have the elephant's trunk power, fitted alike for the most gigantic audacities and the minutest evasions of falsehood.

They then state that Poerio was not tried for his attachment to Constitutionalism, but that the proofs against him were numerous, and not confined to those noticed by Mr. Gladstone; and that Jervolino was trustworthy.

Before vindicating their witness Jervolino, they stop to draw our attention to the praiseworthy conduct of the police, in a passage worth quoting:— "This police, which is so fiercely assailed in the Letters, was *so generous and long-suffering towards Poerio as not to imprison him on the first depositions of L. Jervolino, and only apprehended him when, through the discovery in the possession of the printer Gaetano Romeo of copies of the Catechism of the sect, of proclamations and other criminal publica-*

tions, it was clear that the sect existed and was plotting against the public. Add that Romeo himself aggravated the situation of Poerio, stating that in the house of the arch-priest, Antonio Miele, he *heard talk* of Poerio, Settembrini, and *others* as belonging to that sect."

And others—the others, it will be recollected, including the then actually existing ministers of the Crown, Bozzelli and the Principe di Torella; a statement which of course of itself annihilated the effect of Romeo's declaration.

The "generosity" and "long-suffering" of the police suggest retorts enough. But the expressions are their own best satire. With regard, however, to the ground on which this credit is claimed, compare this statement of the reasons of Poerio's arrest with the real facts in connection with it. Recollect that he was first arrested, and assailed by the police examiners in prison, neither upon the information of Jervolino, nor upon the confession of Romeo, but upon the forged and relinquished letter of Dragonetti. Recollect that even before the arrest the attempt to frighten him into flight had been made, based on that very intended, though probably not yet prepared, forgery: "The Government *is in possession* of your correspondence with the Marquis Dragonetti." And with these recollections, appreciate the value of the imprudent compliment to the police for not having arrested Poerio *until* the depositions of Jervolino were confirmed by the discoveries of Romeo.

Passing to the credit of Jervolino, "Mr. Gladstone

himself," say they, with admirable confidence, "assures us that he heard the evidence of Jervolino discussed for many hours in open Court, *which proves how great care is taken in the courts of justice of Naples to separate truth from falsehood.*" *

They have quoted the first half of Mr. Gladstone's sentence. We supply the second, which will be for most persons a sufficient answer to their remark, as far as the credit of Jervolino is concerned, — to say nothing of that of the Courts of Justice of Naples: "and it appeared to me that the tenth part of what I heard should not only have ended the case, but have secured his condign punishment for perjury."

"If Jervolino," they say, "is such as is described, how comes it that this man of small intelligence is always consistent in his several declarations, never falls into any contradiction, reveals how he introduced himself into the house of Poerio from the time when he was in power, how he knew the particulars of his life, and by what means he succeeded in discovering the traces of the criminal association? No, it is not possible to suppose that any one can deliberately falsify and calumniate when he particularises facts with such circumstantiality, and has no motive for hatred, and still less thirst for vengeance!"

On the first part of this unmeaning passage we have but one observation to make. No explanation is needed of a non-existent fact. Jervolino's statement was a tissue of improbable absurdities; Jervolino did contradict himself; he was not consistent; he

* Rassegna, p. 41.

fell into repeated blunders. He positively contradicted himself, and fell into an absurdity, on the point noticed by Mr. Gladstone, as to the date of his *last* alleged confidential interview with Poerio. He equally contradicted himself and fell into an equal blunder with regard to the date of his application to be admitted into the sect. He originally assigned it to the time of Poerio's being a minister of the Crown.

The remarks of Poerio exposed the absurdities involved in this statement so utterly, that Navarro, by repeated leading questions and pressure, at last induced Jervolino to alter his statement, and date his application to Poerio for admission into the sect *later* than May, 1848; an alteration by which he incurred the counter absurdity of destroying the whole ground of his evidence, by destroying the very reason originally given by him for his application for admission; viz., the hope of getting a situation from *the Minister* by becoming a sectarian.

As to the latter part of the paragraph—whether he had any hatred or thirst for revenge to gratify—we know not; he had the work to do, and the wages to earn. Let the advocates of these proceedings better apprehend the charge against them. It is not that the evidence of violent partisans or personal enemies was too hastily admitted without due sifting of its veracity, or allowance for the colouring of hatred; it is that dispassionate perjured evidence was manufactured for a price, bought, and paid for.

In addition to the evidence of Jervolino, the proofs *particularised* are limited to the statements of the co-accused, Margherita and Romeo.

With regard to Romeo, his evidence had been

already disposed of by Mr. Gladstone, in a few remarks, to which the Defence offers no answer. Indeed it confirms them; since, even according to its own statement as given above*, Romeo's evidence, so far as it affected Poerio, amounted only to having *heard* him spoken of as "one of the heads of the sect along with others," such others including two of the then existing ministers of the Crown,—an absurdity which of itself made Romeo's evidence unavailable."

On the evidence of Margherita, though also disposed of by Mr. Gladstone, in remarks which are also left without answer, more reliance seems to have been placed. The Apologists lay stress on the facts that "he, a Sicilian, brought from Syracuse to Naples, and knowing nothing of the contents of the process already compiled, confirmed, by spontaneous revelations, the facts already recorded, and especially declared the presence of Poerio at the meetings held in the house of Agresti."

The agreement without concert of witness with witness is doubtless an argument of truth: but (not to repeat Mr. Gladstone's statement with reference to the improbabilities contained in Margherita's declaration) the agreement is not very extraordinary when the source of the confession, and the source in a great degree of the facts previously recorded, are the same—the police suggestions:—"Sign this, or we shall be obliged to try stronger measures; sign this, and save yourself, and even others; sign this, and hear news of your family; sign this, and know whether

* See above, p. 52.

your wife or your child recovered or died." This is a process which accounts but too readily for the partial coincidence of the extorted confession with the perjured invention. We speak not generally only, but with reference to the particular case. Such agreement as there was between Margherita's declaration and the records, is pretty sufficiently accounted for by his statement in open Court, which was *this*. On the reading in Court of his "Interrogatorio," or first examination in prison, which spoke of a great council of the sect, and of its pretended components, Margherita retracted these declarations; confirmed the truth of the statements in his "Costituto," or second examination, which of course retracted them also; and stated that he had suffered unheard-of torments when taken from Syracuse to the Castel del Ovo, where he remained three days without food, worked upon by threats of being flogged, by terrors, and by blandishments. He does *not know the persons whom he has named; the names were suggested to him by the examiner*. He had written the narrative of his sufferings to present it to the Court, but before being brought up he was, like the others, searched, and the papers taken from him.

It may be said that such a retractation by an accused, disappointed in his hope of becoming evidence for the Crown, is not worthy of reliance. We believe it to be fully so. Its probability must depend on the circumstances of the case, and the habitual conduct of those whom it inculpates. The men who assailed Poerio with the forged letter of Dragonetti were at least capable of treating

Margherita as he describes. Viewed legally, we apprehend his retractation to stand, like his original confession, as part of the recorded process — part of the evidence, in fact; and thereby, unless rebutted or shown to be improbable, strictly entitled to be weighed against the previous interrogatory. Nor do we think that a reasonable being can hesitate in the choice to which of the two more credit was due — to Margherita's declaration in open Court (which was against his interest, as being certain to provoke the Executive against him), or to the retracted confession, implicating, clumsily and contradictorily enough, the principal victims whom it was intended to destroy.

We have kept as much as possible to the very points touched by the pamphlet. But we will leave it for a few words to illustrate the statement of Margherita by a similar one from another prisoner, Carafa.

Mr. Gladstone has told us how Carafa (a man of high family, and treated as such by the Court and Government with obvious comparative indulgence) was applied to by Peccheneda for evidence against Poerio — unsuccessfully at first — and in what significant words Peccheneda took leave of him. "You wish to destroy yourself: I leave you to your fate." This statement is not denied or noticed in the pamphlet.

Afterwards, however, he *was* induced to write to the prefect a letter, not implicating Poerio, but otherwise of the prescribed tenor. On being called upon in Court for what he had to say, he, in a manner and

language which seems to have produced a deep impression, retracted the letter, as he had retracted it in his second examination, or "Costituto," earnestly asking pardon of his friends around him for the one dishonourable act of his life, which he had been induced to commit through the evil arts of others. On being asked how he came to write it, he answered that he wrote it, not in his place of secret confinement in the castle, where he had no means of writing, but at the house of the commandant, and in the presence of the commissary of police. A few days after his arrest, on the 27th September, *Peccheda* visited him, held a long conversation with him, and pressed him for statements which he could not give. He resisted these importunities. Afterwards, however,—abandoned, alone, terrified by solitude, refused news of his aged mother who was ill, threatened with torture, reduced to a state which he illustrated by mentioning that one night he fell to the ground in a fainting fit, striking his head on the pavement, — his resolution gave way, and on the 29th of October he wrote what the *prefect had told him*, for which he once again publicly asked pardon. The president asked him again who suggested to him the letter. He answered, — *The Inquisitor*; that is, *Peccheda*, who examined him.

Not one person in Naples, we venture to say, doubted the truth of this statement. If false, it would naturally, and even properly, have made *Carafa* obnoxious to the Government. So obvious, however, was its truth, that its being made has not even stood in the way of indulgence being shown to *Carafa*, whom the Court sentenced only to one year's imprison-

ment, from which he has since, we believe, been released. But while Carafa is treated as if his statement was true, Peccheneda, whom it charges with conduct so atrocious, is treated,—shall we say, as if it were false?—No; it would be more correct to say that its truth and its credibility are his qualifications for the post which he continues to hold.

We must not pass unnoticed another observation of the Apologists respecting the guilt of Poerio. Besides these, the only particularised proofs, others, they say, may be found in the “Decisioni a Stampa,”* the printed decision or judgment of the case, which is in every body’s hands. The reference sounds singular. The judgment could hardly convince those who on good grounds doubted the judges. What we want is the evidence. However, let us examine the document to which our attention is challenged. It may be worth while to look at, if not the real, at least the professed grounds of the condemnation of Poerio, as stated by those who condemned him.

This lengthy judgment † of the Court professes to begin with an exposition of the *facts* proved, and to pass from the statement of these facts to the finding on each of the prisoners, with the reasons for such finding. This latter part is technically known as the “Considerandi” of the judgment. Considering this with reference to A, that with reference to B, the Court declares so and so. The first words of the “Fatti” ‡ indicate the pre-occupied tone of the Bench,

* Rassegna, p. 40.

† Decisione della Gran Corte Speciale di Napoli nella causa della Setta “L’Unità Italiana.”

‡ Decisione, p. 15.

and point to the already foregone conclusion in their minds. They are "the sect of the Carbonari." Then follows an adulatory eulogy on the wisdom, beneficence, and, above all, inexhaustible clemency, through which, in spite of the calamitous traces left by that sect, the Sovereign had raised the kingdom to an unexampled pitch of happiness and physical prosperity; and then, naturally, an assumed deduction of the Unità Italiana, not yet shown to exist, in legitimate descent from the Carbonari. There is nothing new or surprising in any country or language in an inflated, conventional, obviously insincere string of compliments to the government which actually exists; the peculiarity which characterises this Neapolitan specimen of adulation consists in its forming part of a formal judicial document, and serving as preamble to a corrupt and cruel sentence. Then follows a long and not very clear narration of the facts from which the greater or less degrees of guilt of no less than forty individuals are by some process of reasoning to be deduced. It is almost as impossible to arrive at the separate proofs against any one of the prisoners, as to follow consecutively the entangled and interrupted adventures of one of Ariosto's heroes. The general impression on an English mind is, that no *corpus delicti* is established, and consequently that, there being no ground for any charge against individuals, we may dispense with the labour of attempting to measure the comparative improbabilities of their guilt. The judges, however, are more skilful in disentangling the knot which they have themselves constructed. At the end of this history we find that

they have settled (as indeed they obviously had from the very point of setting out with the Carbonari) the existence of the crime; and that they are about to distribute it among the criminals, and to assign to each the share of the evidence which affects him especially.

Turning to that part of the "Considerandi" which affects Poerio, we find, as might be expected, the main stress laid upon the evidence of Jervolino. We find it stated that this evidence was confirmed by the confessions of Margherita and of Romeo.* We find that to this evidence, "per esuberanza," may be added that of Antonio Marotta (another of the Jervolino class of witnesses), who stated that he had heard Poerio spoken of as belonging to the association.† And we find "that these proofs reach the highest degree of moral certainty," looking to the preceding political conduct of Poerio, as stated by himself, his acquaintance with some of the accused, and to the agitation which, in Pomigliano d'Arco, one Cantone caused by disseminating there certain information (*notizie*) with a view to create excitement,—information which was "spread under the name *and with the authority* of Poerio."

This is literally all. These are the proofs which they adduce, not as sufficient, but as superfluously plentiful for conviction.

Of Jervolino, Margherita, and Romeo, we have already spoken. Marotta may be left aside. An informer of the worst class was not unlikely, among other things, to *hear* that the sect included any one whom his instructors wished to destroy.

* Decisione, p. 95.

† Ibid. p. 96.

Poerio's uniform and honourable account of his own political life and views came to this—that he desired a constitutional government, to be obtained only by peaceful means; that he was totally averse to secret societies and conspiracy; and that he had nothing to do with any sect whatever, whether called *L'Unità Italiana*, or under any other name. He stated also that he had, as a minister of the Crown, advised the King to promote alliance and union between the Italian states, "*L'Unione Italiana*." Unity and union are as obviously distinct as singular and plural. Yet it is from this harmless, if not honourable avowal, that the correspondent of an English newspaper, surpassing even the judges of Naples in mean audacity, has ventured to insinuate the atrocious misrepresentation, that Poerio admitted himself to have belonged to the *Unità*, "*or, as he called it, the Unione Italiana*." We admit that the love of regulated freedom, to be legally obtained and maintained, is highly criminal in the eyes of his judges and their employers; but it is not a proof that he belonged to a sect called "*Unità Italiana*." Passing over the vague talk about relations with the other accused, we come to the last fact through which it is sought to affect Poerio—the alleged agitation in Pomigliano d'Arco. Luckily on this point the judges have given us the means of forming an opinion. We are content with their exposition of this part of the case, as set forth among the "*facts*." It seems that Felice Cantone was in the habit of disturbing the arrondissement of Pomigliano d'Arco by spreading reports and using exciting language; that he was understood to be in

connection with Poerio, Imbriani, and Saliceti; "and as Cantone was not clever enough to keep alive the hopes of the factious with false and exciting news, it was the common opinion that his lack of ability was supplied by the insinuations and advice of Poerio."* "*To that effect*" (*i. e.* to their fancying as above) "gave evidence several individuals of the commune; and were confirmed in their opinion by the fact that Cantone never abandoned himself to his culpable excesses with so much impudence as after returning from the capital; that he himself said that he had learned from Poerio the news which he diffused to excite the turbulent; and they thought, in consequence, that Poerio had instigated him to revolutionise the country. One witness added, that his opinion became positive when Vincenzo Cerino told him that he had seen, in the capital, Poerio, Imbriani, and Cantone in the same carriage.† Another witness said that Cantone had told him that he went to Naples to confer with his brethren, among whom he named Poerio and Imbriani, and that a republic would be proclaimed." Cantone was too dull to invent news; and some people thought it was Poerio who instructed him. When he returned from the capital, he was especially audacious; and somebody thought it was from Poerio that he had received audacity. He mentioned facts as having heard them from Poerio; and some thought in consequence that Poerio instigated him to revolutionise the country. Somebody heard from somebody else that he had seen the

* Decisione, p. 45.

† Ibid.

agitator in Naples in the same carriage with Poerio and Imbriani; whereupon he, the first somebody, thought more than ever that Cantone was instigated in every thing he did by Poerio. Witnesses are found who thought, or say that they thought, these things; and judges openly and confessedly receive and refer to their thoughts as proving the facts which they imagined.

It is enough to state these ludicrously atrocious arguments. It seems almost superfluous to add to all this that there is no link between these alleged proceedings of Cantone and the alleged sect; that it appeared from the witnesses themselves that Cantone was a "chiaccherone," a chattering, blustering fellow, apparently given somewhat to practical jokes on his country neighbours, and much to startling them with boasts of his intimacy, real or supposed, with men of name. One of the witnesses gave evidence that he had been told by Cantone that Poerio was, *in his house at Naples, preparing bombs to blow up him, the witness, in his house at Pomigliano d'Arco*; this being the very enlightened witness whose intimate persuasion—founded upon his having heard from somebody else, not produced, that Poerio and Cantone were seen driving together—is the proof of Poerio's guilty instigation of Cantone. Finally, Cantone himself had been under process, and released, there being nothing against him for the very agitation with which, through him, the "Decisione" dares to trace the treasonable connection of Poerio.

Thus of the three conditions necessary to justify the judges—judges indeed!—in referring to this

matter at all, as bearing on the guilt of Poerio, viz. 1st, that Cantone was guilty of seditious proceedings; 2nd, that Poerio was his instigator; 3rd, that the proceeding bore somehow on the question of the "Unità Italiana:" of these three steps the first is negatived by his release; the second is supplied by the belief of a stupid and malignant witness; the third is absent: and this tribunal, — this negation of justice, erected into a system of judicature, — assumes and affirms all three.

We have to thank the Apologists for directing our attention to a "Decisione," including these exquisite specimens of judicial reasoning. This is what the Decisione contains bearing on the case against Poerio; the whole amount of the grounds on which the judges who perpetrated, and the Government which directed, this villany, profess to rely for its justification.

Consistent with their mode of establishing the accusation is their mode of dealing with the defence. That Poerio advised Carafa to have nothing to do with any sects, "*even if true*," (observe that, on this point, Carafa did not at any time differ with or contradict himself, not even in the extorted letter,) can be easily accounted for; "because, besides that Carafa said so to demonstrate his own innocence" (what, *even if true*? Having just allowed it to be true, they are now, with characteristic and fraudulent confusion, again supposing it to be false), "it is to be observed that he, being undoubtedly a friend of Poerio's, and visiting him in prison, *would naturally receive such advice from a person who, finding himself in that position, had to seek for means of proving his innocence!*"*

* Decisione, p. 96.

This monstrous method of arguing does not even fit the statement of Carafa; which was, that Poerio had *always* told him to have nothing to do with the sects, deeming them hostile to true liberty.

Then comes a more important point of defence, handled with yet more flagrant dishonesty. Poerio, it will be recollected, had shown that, at a date previous to his last alleged criminal communications with Jervolino, he was in possession of a written report of the latter denouncing him. "Can you believe," was the argument, "that, with this document in my hand, I could hold such communication with the informer? Is not here an evident, undeniable piece of perjury? And what credit can you give to the evidence of a witness so clearly perjured on the point where I have by chance the means of proving him so?"

This argument, bearing upon the credit due to the witness, the *Decisione* deals with in two separate places; first in the "Fatti," then in the "Considerandi." The first audaciously misrepresents the object of producing the letter. Poerio, they say, produced a letter of Jervolino, "*to prove that the latter was in the habit of constantly watching him, and repeating his proceedings to authority. He stated that he had received the letter from a friendly hand, which he could not name, and had been in possession of it since 22nd May, 1849; which letter, to judge the better whether it demonstrates the evidence of the guilt of Poerio, it is desirable here to transcribe!*"*

And then follows the letter, containing some of the usual—what shall we call them?—some of the usual

* *Decisione*, p. 46.

statements of Jervolino. "This morning I was at Poerio's house—So and So were there—such and such treason was talked—Poerio told me Garibaldi was coming," &c. Is it worth exposing this tissue of falsehood and fraud? Poerio produced the letter, not to prove that Jervolino was watching him, but to prove that he *knew* him to be watching him, and thereby to disprove his having subsequently confided in him, and to demonstrate the perjury of the witness. But this, the one bearing of the letter, is simply ignored; the object of its production put out of sight by a lie: and then it is assumed as true, and quoted as part of the case which it destroys.

In the "Considerandi" the same thing is done, with a slight change of manner: "That no weight is due to Poerio's objection to Jervolino, founded on the writing of the letter which came into his possession on the 22nd May, 1849."* Why?—Because "if from that time forward he was possibly cautious, and withdrew himself from Jervolino's investigations, the past was a fact already completed; Jervolino himself having declared that it was just after the month of May, 1848, that he asked of Poerio to be initiated into the sect." This is, we admit, almost incredible; but it is *there*. A fact in proof that the witness was unworthy of credit, so clear that it could not but be admitted as fact, is admitted, just so far as to cover the one fact shown to be impossible. Its bearing on the credit of the witness is deliberately ignored, and the veracity of the proved perjurer

* Decisione, p. 96.

deliberately assumed. "You have shown that Jervolino swore falsely with reference to conferences in 1849. What has that to do with the conferences in 1848, which he swears to?"

We think we have convicted the judges from their own mouths of reasoning in the manner stated by Mr. Gladstone, viz., of simply setting aside all proved falsehoods, and giving and attributing nevertheless undiminished certainty and credit to all which were not disproved, though spoken by the same man.

Equally remarkable is the reasoning of this judgment—miscalled—with respect to Settembrini. It is worth while examining the four heads of the Considerandi on which this man, in ability and character equal to Poerio, was convicted of belonging to the sect.

First, there is the evidence of Jervolino, the evidence of Romeo, the evidence of Margherita, the staple of perjury and extorted falsehoods.* It is enough to say, that Jervolino was proved by Poerio to be a perjurer; that Settembrini was able, had he been permitted, to prove him to be a paid informer, and therefore excluded by law from giving evidence. Of Margherita's confession, and of Romeo with his "others," Bozzelli and Torella, named as heads along with Settembrini and Poerio, enough has been said already.

Next, there is the "fact," equally well proved, that Settembrini sometimes, in the Caffé de Angelis, in the Toledo, held on political subjects with Filippo

* Decisione, pp. 96, 97.

Agresti, Michele Pironti, and some persons from the provinces, conversations, from which transpired revolutionary ideas and tendencies to republicanism, in imitation of what had occurred at Rome.

How was this fact, in itself not very relevant, proved? An ordinary informer of the most infamous character, a convicted thief, Carpentieri, states that he had heard conversations of the above tendency held in the Caffé de Angelis by Agresti, Settembrini, Pironti, and *others*. He was confirmed by a man of precisely the same character and credit, Nicola Barone. It was requested that the master of the coffee-house, De Angelis, might be called; and after some opposition he was called. He stated that no such conversations were in the habit of taking place at his house; that he knew Agresti, but had never seen Settembrini or Pironti; that he had never seen Carpentieri there: he had seen Barone, to whom nobody spoke, as his character was known. This account was confirmed by another witness. It was further stated by Pironti that Carpentieri had attempted to extract money from his family.

Third — the confessions of Ferdinando Carafa, which, it is said, of themselves fully establish the guilt of Settembrini; that is, the confessions dictated by Peccheda, extorted by terror, mental torture, secret imprisonment, and solemnly retracted by Carafa.

Fourth — no words but their own can do justice to the point, and without exact quotation any representation of this portion of a judicial decision would be utterly incredible: —

“That if formerly Settembrini was subjected to

trial as belonging to the sect of Giovine Italia, now reproduced as the Unità Italiana, and if in his house, among other printed matter deserving censure, was found a Sicilian song insulting H. M. the King, the conviction becomes profound that he, fond of sectarian associations and of defamatory libels, did not fail to belong to the new secret society, which is confirmed by his intimate relations with aforesaid Poerio, Agresti, and Pironti."*

Because Settembrini was tried (and ACQUITTED) for belonging to a society, between which and the present society the assumed link is not shown nor even explained, and because a Sicilian song had come into his possession, there cannot be a doubt that he was a member of the Unità Italiana.

This argument, from the former prosecution and acquittal of Settembrini to his present guilt, has been referred to † as urged by the Procuratore Generale Angelillo. If it is monstrous in the mouth of the prosecution, what is it when adopted by the judges? *This* is the case against Luigi Settembrini on the point of belonging to the society called "L'Unità Italiana."

Again we have to thank the Apologists for calling attention to this Decisione, the document perhaps of all others most damning to the cause which they uphold. We are bound to take it as the production of the Bench delivering the sentences which it professes to explain and justify: but we have received,

* Decisione, p. 97.

† Edin. Review, No. for October, 1851. "Neapolitan Justice."

on good authority, a statement which adds one characteristic feature more to the case.

The body of the Decisione, the Fatti, or confused argumentative narrative of facts, which we have compared to Ariosto's intertangled thread of legends, was duly drawn up by the Court, and returned to the Minister of Justice as the sole ground and justification of the several sentences. The Considerandi, or separate application of the judgment to the case of each individual, formed no part of the authentic utterance of the Court. The Minister, foreseeing the unfavourable effect which the omission of any statement of the individual cases might produce on public opinion, employed a stranger to the case, an advocate, at a cost, it is said, of 3000 ducats, to extract from the judicial document the most plausible set of Considerandi which the materials offered, and added them to the decision before he allowed it to issue from the press. It is consistent with all the proceedings that the least irrelevant and most audacious portion of the judgment should be a ministerial interpolation, although we cannot at present positively state whether, under the circumstances, it amounted to forgery. In any case the sentences of the prisoners were settled before the formal pretexts which now purport to justify them were invented or attempted to be invented.

Returning from the judges to their apologists, we have finally to observe, that in this chapter (being Chapter V. of the "Rassegna") we have come at last to the main point of the case, the evidence on which the guilt of the accused, and especially that

of Poerio, taken as a specimen, rests; and that on this all-important point they have to say — what? That there was plenty of evidence even besides that mentioned by Mr. Gladstone. Very well, what was there? Why, there was in particular the evidence of Romeo, the evidence of Margherita, the evidence of Jervolino; the very sources of evidence named and examined already by Mr. Gladstone. They have not re-established the credit of one of these sources: and in naming no other, they have made it clear that there is no other on whom they place even an equal reliance. They have said, in fact, virtually nothing. They have made it clearer than before that there is nothing to be said. In referring us to the “Decisione,” they have said much less than nothing, for they have brought out a great deal against themselves. With this exception, they have left the case exactly where Mr. Gladstone left it, resting on the single evidence of the suborned perjurer to whose name he has given an European infamy.

We then come to Chapter VI., headed “Legality and Humanity with which the Decision in the Trial of the Unità Italiana was carried out.”* Under this head we have a detailed statement of the various sentences, and an adulatory eulogy on the King, on the text of that of Faucitano. There is, moreover, a contradiction or correction of Mr. Gladstone’s statement, that, of three persons capitally convicted, only one can be legally sentenced. He has, they say, fallen into the mistake of referring to a military law some-

* Rassegna, p. 43.

what to this effect. Nevertheless it clearly results, from the explicit statement of the pamphlet itself*, that, by a royal rescript of November, 1850 (which before the Constitution would have had legally, and now has, illegally but practically, the force of a law), the judges are positively directed, in any case of capital conviction of several persons as heads of a conspiracy or sect, to distinguish the *one or two* upon whom the sentence should be executed; and it is equally clear, from the statements of the pamphlet, that, in the case of the *Unità Italiana*, the judges passed the capital sentence upon *three*, being the whole number capitally convicted, but did not perform their subsequent official duty of pointing out the *one or two* to whom the execution should at all events be limited.

It was not until pressed by the Court to recommend one, that they afterwards selected that one, viz. Faucitano. Mr. Gladstone's statement is therefore not virtually inaccurate; the judges had imposed on them by law, or at least formally, and by what they consider law in other cases, the duty of limiting their sentence, and they did not perform that duty. It is not the most important, nor perhaps the most culpable, instance; but still it is one more instance, in which legal or quasi-legal obligations were violated to the disadvantage of the prisoners.

The point of the treatment of the prisoners follows, and, of course, all cruelty is denied, and all possible clemency asserted.

Now, it will be as well to recollect, first, upon what

* *Rassegna*, pp. 45, 46.

foundation the statements of Mr. Gladstone on this point rest. They rest upon his own personal knowledge. He saw the place of confinement—the irons—the chained pairs of educated men. He should not have known Poerio, whom he had seen two months before. He knew, on the best information, that others were equally changed. He was assured, but could not state on his own knowledge, that the practice of chaining two and two was introduced recently into the prison of Nisida.

On this point the authors of the pamphlet deliberately misquote Mr. Gladstone, so as to make him appear to say what he does not say, that the usage was previously unknown; and, having thus evaded this part of the charge, go on evasively to answer, that there is a law which, if Mr. Gladstone had consulted it, would have shown him that he was wrong in supposing “that the *usage of chaining two and two those condemned to ‘ferri’ was recent, and introduced to the injury of Poerio.*” Now Mr. Gladstone does not say that the usage *generally* was recently introduced, but that it was recently introduced into this particular prison; an assertion perfectly consistent with the law, and which even the pamphlet, when carefully read, does not in any way contradict, though no doubt intended to *appear* to contradict. The law, as quoted in the pamphlet, is given below in a note.* It shows,

* Art. 9. Penal Laws. “The punishment of irons (*ferri*) subjects the condemned to hard labour for the advantage of the State. It is of two kinds. The first is suffered in the *bagni*, where the condemned shall wear chains on their feet, *either singly, or chained two and two together, according to the nature of the labour they shall be set to.* The second is suffered in *presidio*: under this

as distinctly as words can show, that the chaining singly, or two and two, is a matter perfectly open under the sentence "ai ferri." It therefore shows that the choice rests with the Executive; a choice which, in the case of Poerio and his companions, was exercised in preference of double irons, though, according to Mr. Gladstone's *uncontradicted* statement, it had previously, so far as this particular prison was concerned, been exercised the other way.

Upon this point there is another passage which we must examine. "Not more true," say they, "is the *other* statement, that by orders of H. R. H. the Count of Aguila, the Brigadier Palumbo betook himself to Nisida to examine the irons of Poerio and his companions, and *make them heavier*." Here again is a contradiction, but not of Mr. Gladstone's statement. Mr. Gladstone states that, double irons having been previously unknown in the prisons of Nisida, "just about the time when Poerio and his companions were sent to Nisida, an order came from Prince Luigi, the brother of the King, who, as Admiral, has charge of the island, ordering that double irons should be used for those who had been brought into the prison since a certain, rather recent date,—I think July 22. 1850."

Mr. Gladstone afterwards states that General Palumbo, the inspector, who had not visited the island for some time, visited it about the time of his own visit (in February last), and *infers* that he came to make sure that the orders were not evaded.

punishment the convict is made to work inside a fort, with a circle of iron round his right leg, according to the regulations."—*Rassegna*, p. 50.

This, it will be observed, is *not* the statement contradicted. Was this order of the double irons given, yes or no? We are not told it was not; and we believe it was given. By whom? No order on the subject could be given by Prince Luigi, the pamphlet tells us,—first, because he is too benevolent (therefore it is morally impossible); next, because the “*bagni*” do not depend on him as Admiral, but solely on the Minister of Public Works, General Carascosa, known also for his benevolence (therefore it is officially impossible). Very well; we do not desire to discuss the benevolence. If the Admiralty has really nothing to do with the “*bagni*,” we presume Prince Luigi could not give the order.

But what is this which follows?

“If the fact of the matter is wished for” (certainly it is if only we could get at it), “it is this,—that the Brigadier Palumbo, *in the quality of Inspector of foreign branches of the Royal Navy, visited the island in February last, in discharge of his duty, and to observe in what manner the recently arrived prisoners condemned in the case of the Unità Italiana were treated,*”* and found them in the possession of some extra comforts, which he permitted them to retain.

The “*bagni*” depend solely on the Minister of Public Works; the Admiralty have nothing to do with them, and the Naval Brigadier, as inspector of certain branches of the navy, visits the “*bagni*” in discharge of his duty, with full power to give orders as to the treatment and comforts of the prisoners!

* Rassegna, p. 51

The official impossibility seems destroyed ; we are thrown back on the benevolence.

Our readers have the case before them. We leave them to judge *who* gave the order.

The pamphlet then goes on, with an unfeeling affectation of comforting Mr. Gladstone, to state that the condition of Poerio and his fellow-sufferers has been of late improved, though not, it is expressly stated, by orders from the Government, but rather, as is implied, by the pity of their gaolers. Poerio and Pironti have been permitted to take baths in the hospital ; and subsequently Poerio has been, not in consequence of illness, but at his wish, removed there ; where, it is implied, he is released from his companion, and, be it added *en passant*, chained to a ring in the centre of the room. Occasionally they take the air, without chains. Nisco is visited by his wife and children ; and on one occasion, when so visited, he was not coupled or even chained. All this simply comes to a full admission that Mr. Gladstone's statement of the general state of things on these points, as they were when he saw them, was not, in any material or even trifling point, overcharged ; an admission which, for some distrustful readers of Mr. Gladstone, may have its value.

It is impossible to learn with absolute certainty the exact state of the prisoners. The statement, that Poerio returned to the hospital *not* from illness, is, we fear, unfounded. We have too good reason to believe that his health has most seriously suffered : indeed, how could it be otherwise, from the treatment of the prison ? For the rest, we most earnestly desire that

there may be some foundation for the statement of partial improvement ; and we derive from it, as doubtless will Mr. Gladstone, in spite of the sneer, the modicum of comfort corresponding to the modicum of belief which the assurance from such a quarter commands.

Neither is it true, we are told, that Settembrini has been tortured. What use, indeed, it is insinuated, would it be to torture him now that he is convicted and shut up for life?* In spite of the suspicious tone of the argument, we do hope we are not wrong in accepting this contradiction. Savages kill an enemy with tortures ; the slow death of years may suffice a Christian and civilized government. We need no borrowing from savages, or the Inquisition, to deepen the feelings with which we regard a man of great abilities, high character, and warm and rational patriotism, undergoing for the offence of these qualities the worst form of the punishment due to the worst of criminals.

The slaughter of 175 prisoners in an attempt to escape is not denied ; but it occurred in 1848, and at Procida, not at Ischia, and the prisoners were not political offenders. They were on the point of escaping, and the soldiers were forced to use their arms : no invalids were killed in the infirmary, however. All this may be true ; and though we have heard it contradicted, especially on the last point, we are not able to disprove it. Let it pass, therefore. What possible necessity could have led to so wholesale a sacrifice of

* Rassegna, pp. 51, 52.

life is not explained. It seems impossible but that the use of force must have been most reckless, and continued beyond necessity. The fact, however, is quite isolated from the other parts of the question; and it is only from a scrupulous anxiety to give the Neapolitan Government the benefit of a partially contradicted charge, that we have thought it worth noticing at all.

We have now arrived at the notice of the second letter.

Chapter VII. is headed, "Mr. Gladstone's Second Letter is a Confirmation of the First, with the Exception of some additional Errors."* We, too, must be brief in our notice of this portion of the pamphlet, which does little but add some equivocations to the former, and equivocations not much to the point.

Mr. Gladstone's second letter is directed, it will be remarked, mainly to remove some degree of the incredulity with which the statements of his first would naturally be met. And this he has done in part by some appropriate remarks on the meaning—the idea, so to speak, of *police* in Italy; in part, by pointing out some undoubted historical facts and tendencies, especially with reference to Rome and Modena, illustrative of the *possibilities* to which governments in Italy may descend, as they have descended; but principally by quoting passages from the infamous "Philosophical Catechism." This religious production shows that, unlikely as such baseness, cruelty, and perjury as he has described may be in itself,

* Rassegna, p. 57.

there are, not defenders to justify it, but teachers to inculcate it as a duty, — teachers to maintain that a king can in no way abdicate a portion of his sovereign power; can and ought to be bound by no oaths, or number of oaths, to the observance of a Constitution; can and ought to set aside the fundamental laws of the State*, *ancient as well as modern*, at his pleasure, when it seems good to him to do so.

As to the ordinances of the Court of Rome and the Duchy of Modena, “we at Naples,” they say, “have nothing to do with these.” Neither have they directly, nor did any one suppose they had. The facts in which Naples is not concerned are, and profess to be, introduced as illustrations, or more properly explanations, of the other facts, equally certain, in which Naples is concerned. As to the police, they receive with a not altogether unamusing tone of incredulity Mr. Gladstone’s true, but doubtless to their ears absurd, statement, that in England a constable, as representing the law, is respected. They say, that in Naples, as in other countries, “*if you except the subalterns*,” the other officers enjoy with the Government and their fellow-citizens “a grade of consideration which augments in proportion to their talents and their virtue!” † and moreover, that they are promoted by merit. “Successively, as they show themselves worthy of the post entrusted to them, they ascend.” The consummate flower of the system, therefore, is Pecchedena; and he, the suggester of the con-

* This is explicitly maintained in the Catechism.

† Rassegna, p. 58.

fessions of Margherita and Carafa, is worthy of the post entrusted to him.

They then come to the Catechism, of which they quote Mr. Gladstone's description as "a complete systematised philosophy of perjury for the use of monarchs," and (prudently) decline to discuss with him the merit of the doctrines set forth in the "ill-interpreted Catechism." "We are laymen," they insinuate, with an air of humble withdrawal. "Neither Mr. Gladstone nor we are competent judges of such a book." It involves too many points of religion (!), and "we will not remove to another field of conflict a question which, as brought forward by Mr. Gladstone, was restricted to the *greater or less regularity of the forms* (!) according to which a few unhappy persons were tried, and to the manner in which they were suffering the punishment to which they were sentenced."*

This requires no comment. Those to whom the Catechism itself does not appear a systematic justification of perjury, will certainly not be convinced by argument that it is so. Neither perhaps ought we to be surprised at the slight lapses from truth already noticed in laymen whose theology is too modest to determine whether perjury is wrong.

They then proceed to contest the idea that the Catechism was ever intended as a defence of the existing state of things. This work, they say, which seems to Mr. Gladstone deliberately adapted to justify the history of the last three years and a half, does

* Rassegna, pp. 60, 61.

not even refer to those facts; it is a mere reprint: it appeared in 1837, and has now been republished as it was before. "We," they say, "have consulted the former edition, which exactly corresponds with that of 1850."

Republished, let us observe, as appropriate to the facts of the time, and recommended with authoritative words to be used in all schools and public places of education, as a means of instruction and safeguard against prevalent philosophical errors. From a partial comparison which we have made between the editions, the assertion appears to be true. At the same time, nothing can be more natural than Mr. Gladstone's error.

Doubtless the precepts of perjury were not without their application to the older facts of Neapolitan history. The ordinary life of man, the life of Guglielmo Pepe for instance, or Ruggiero Settimo, has sufficed to bring them in contact with more than one generation of oath-accepting kings. Nevertheless, on the argument of design, we are apt to believe that a coat which fits exactly was meant for the person whom it fits, and the exact correspondence of the present precepts for royalty with the royal practice of the last few years, made it difficult to believe that there had been no alteration in the hereditary garment, no addition, enlargement, or refreshing of the precepts of the Catechism. Had it been written for 1850, it could not have fitted better. But the wrong of Italy is the same; 1848-50 is the legitimate successor of 1821, and though a generation has passed away, the self-same words exactly serve in vindicating to de-

scribe and condemn the continuous falsehood and oppression.

In this Catechism, we find not only a defence of perjury, fitting with all the closeness which could be required by the argument of design; we find also an elaborate attack on the delusion and error of the present day, viz. Italian nationality and Italian independence. There is a chapter headed "La Patria," in which, by the way, the pupil's patriotic sympathies are satisfied by a notable argument *ad hominem*. "If all the Italians are fellow-citizens because they are called Italians, you would be the fellow-citizen of all Bartholomews because your name is Bartholomew."

There is a chapter headed "Indipendenza," which begins with the question "whether the Italians are right in demanding Italian independence;" and then follows an elaborate setting forth of the assumed absurdities involved in the idea of independence, and of the benefits consequent on the presence of the Austrian rulers and armies. "Have not the Liberals," asks the pupil, "some reason to complain of the presence of Austrian troops, not content with their own dominions, but dictating the law in other Italian states?" A natural question: the answer is edifying. "Liberals and felons are right in complaining of the presence of Austrian troops, who are called in to put down Liberals and felons; but," &c. &c. &c. Emphatically as all this belongs to 1848-50, it yet is contained in the edition of 1837. So it is: *Sic fuit, est, et*—we will not add — *erit!*

We find in the same paragraph of the Apology one incredible and one doubtful assertion:—1st, That

the Government neither knew of nor sanctioned the publication or diffusion of this work; and, 2dly, That the edition of 1850 was published before the enactment in that year of the law of the censorship of the press.

We have not the means of comparing the exact date of the publication with that of the present law on the press. We have, however, been assured that this statement is not correct; but it matters little. Supposing the publication of the Catechism to have preceded the enactment of the existing law of censorship, was there no law or practice existing before? Was there in Naples a liberty of unlicensed printing and teaching, previous to the date of the law of 1850? Was it worth while to test our credulity by disclaiming, on behalf of the Government, prior to some date in 1850, the entire control over the press and over public instruction?

The real history of the Catechism is this. It or a similar work was composed originally by Count Monaldi Leopardi. The present Catechism was printed in Naples in 1837, under the auspices of one who, doubtless, had enforced orally on his pupil the precepts which, for their joint convenience, it was thought desirable to spread by publication, viz. Monsignore Scotti, the present King's tutor. That edition, as appears on the title-page, was printed at the *Stamperia Reale*. The work is now re-published by the care of one whom an assailant of Mr. Gladstone describes, no doubt with truth, as an "ottimo Gesuita." The publication at the *Stamperia Reale* at once establishes the fact of the cognizance and sanction of the

Government in 1837, and throws light on the assertion that such cognizance and sanction were absent in 1850,—an assertion which needs no further refutation.

Thus, between the previous publication and the present reprint, as with especial application to the present time of the former body of doctrine, the quotation in the preface referred to by Mr. Gladstone with proper indignation, becomes truly appropriate. "*Ego Plantavi*," that is, Monsignore Scotti planted in 1837; "*Apollos rigavit*," that is, "un ottimo Gesuita" waters in 1851. We will not give the end of the quotation; but we can echo without a change the prayer into which the pious catechist has paraphrased it, that "God in his mercy and grace may make prolific the seeds of justice sown by him."

It will be recollected, that in his first letter, Mr. Gladstone, treating of the trials, professedly left the question of the Constitution aside. He was content to treat it as non-existent; to postpone all questions of slavery and freedom, even of oaths and perjury. He wished to show how flagrant had been, on any supposition, the violation of justice and humanity. It was only to make the facts narrated by him, not more excusable, but more conceivable,—to explain the acts of the Government now, by showing how its false and illegal position drives it to maintain wrong by wrong,—that Mr. Gladstone, in his second letter, gave some sketch of the present political position of the Government of Naples. On this head more than their usual prudence is shown by the authors of the "*Rassegna*." Of the spontaneous granting of the Con-

stitution,—of the spontaneous re-assertion of attachment to the Constitution after the victory of the 15th of May,—of those flagrant contradictions between the terms of that Constitution, article by article, and the actions of the Government, act by act,—upon all these points nothing is said in the notice of the second letter. What indeed could be said, beyond the false and unmeaning assertion already made, that the Constitution was obtained by fraud and deception, and that its abolition was unanimously desired?

With the declined defence of the Catechism, and mis-statement as to its having received Government sanction, the Apologists therefore virtually terminate their labour, if we except a conclusion in which they sum up the points on which they assume the credit of having convicted Mr. Gladstone*, viz. of having, without title or just ground, made himself a censor of the Neapolitan Government—of having exaggerated immeasurably the number of political offenders—of having, through wilful neglect of the proofs to the contrary, come to the conclusion that their condemnations were unjust—and of having represented the execution of the sentences as cruel, while, on the contrary, it is characterised by a lenity and humanity “rather to be called excessive.” All these horrors, they say, originate solely in the fertile mind of the writer, and, perhaps, in his sympathy for those whom justice has reached.

Having gone through the Apology step by step with us, our readers will be able to say whether, in

* Rassegna, pp. 63, 64.

stating themselves to have thus confuted Mr. Gladstone, its authors sum up an honest and truthful argument with a truthful statement, or whether, on the contrary, they are closing a series of evasions and falsehoods with the last and most audacious of all.

On many points, and those of chief importance, they have not even professed to touch the charges brought against the Neapolitan Government. That the Constitution, guaranteed by oaths in vain, is in abeyance—that more than half the representatives of the people under it are in prison or in exile—that the prisons are, and have been from two to three years, crowded with political prisoners—these facts, of course, are too patent to dispute. On the right and duty of Mr. Gladstone to act as he has done, after the ineffectual attempt made by him to obtain amendment without public exposure, we leave him and his opponents to the judgment of mankind.

On the number of the prisoners they have given a statement, of which the glaring deviation from correctness has been proved, though the exact amount of such deviation is indefinite.

On the state of the prisons before, and on the cruelty of the punishments inflicted after trial, as indeed on the whole case, they have, by their evasions, admissions, and arguments, virtually confirmed the allegations of the accurate and careful *eye-witness* whom they have assailed. That these prisoners are legally convicted and fairly tried they have shown, as we have seen; and on this, the greatest point of all, the illegality and injustice practised, they have not

brought forward one new fact of weight, or shaken one charge against them.

Where they are most successful, they have taken issue on some trifling and generally irrelevant point; where they have ventured to meet the serious part of the charge, they fail. They have not, we venture to say, altered the opinion of one single careful reader of Mr. Gladstone's letters and their answer.

We have accomplished the object which we proposed to ourselves, that of going carefully through the defence of the Neapolitan Government, and pointing out its inefficiency. It has not been our object to add much to the statements of Mr. Gladstone.

It would have been an easier and less irksome labour to pass to other points of the case, to meet the almost inevitable supposition that Mr. Gladstone's statements, however accurate, are yet to be accepted as rarities, and not as specimens, by multiplying from the trial itself instances of iniquities. It would be easy to show what has been the conduct of the Neapolitan Government, with reference to other trials; to expose in particular the iniquity of that known as the Fifth of September, in which a considerable number of persons of the lower orders were sentenced to twenty and twenty-five years' imprisonment, literally for being concerned, on the Constitutional side, in a street row and fight deliberately provoked by a deliberately got up mob on the Absolutist side, at a time when the Constitution was not only, as now, the law of the land, but was the actual practically existing law of the land,—at a time when the Chambers were in existence, and months before they finally ceased to sit. Among

men politically eminent, and therefore worth destroying, Poerio is not by very many the first whose destruction has been sought by iniquitous means. But sentences of from twenty to thirty years imprisonment, inflicted in the name of their Sovereign on poor men, because their zeal in behalf of the legally established and actually working Constitution under the guarantee of the oaths of the same Sovereign was capable of being warmed by provocation and riotous attack to the pitch of defensive riot, are, we believe, without parallel in history.

But these things can wait; and in the mean time there is an advantage in keeping as strictly as possible to the ground accepted by the Neapolitan Government.

It is to Mr. Gladstone's charges that they have pleaded not guilty, with so much assurance and so little real vindication. And it is a quite sufficient issue for conviction.

And herein at least they have rendered a service to humanity; that they have set the question of the truth or falsehood of the charges at rest. Had the Neapolitan Government continued absolutely silent, a capacity of defence might have been imagined for it. We now know that *nothing* which it has to say. We know, too, the mode in which it does not scruple to say that *nothing*. We might have doubted—we could not but doubt before the appearance of this apology—whether the case might not be differently looked at; whether there might not be room for palliation at least, if not for contradiction. We have seen both sides of the shield now, and the matter is settled.

Yes, we have reason to thank you, the authors, prompters, and distributors of this defence; the more because we wonder at the imprudent step you have taken in answering at all. True, a guilty conscience will seek refuge in sophisms which impose on no one else, and hardly on itself. Yet there is no Machiavel in your Cabinet, or he would have advised you, as we should have done, only with shorter and more cutting irony:—"Let others write, but do you answer nothing. Be content with having beaten down by armed violence the liberties you guaranteed by oaths. Be content with the fact of oppression upholding the fact of perjury. Be wise and be silent. Who can effectually confute the master of many legions? Let truth have her free press: it is on force that you must stand. Stand on that army which, better and honester than its employers, gave you back the power which you abuse: your thousands of Swiss, your tens of thousands of Italians. You have the sword, and are safe while you can wield it; that heavy sword of common iron, edge-hardened with mountain steel, 'the ice-brook's temper.' Use it, till, as others have done, it turns in the grasp of its holders; it will turn all the sooner for such arguments as these.

"Do not be deluded from the vantage ground of strength, by thinking that you must perforce give some answer. Do not prematurely, and to your hurt, adopt the utopian theory of some enthusiasts, that, in our age, whatever cannot justify itself in free discussion is doomed. It is suicide in you to assume that the time is come in which nothing plainly unjust can stand. That dream of theirs is too early, yet its ac-

complishment may be hastened by imprudence. Beware, lest you too, by entering into a discussion which must damage and may destroy you, contribute to the realization and acceptance of the theory one striking example the more."

THE END.

... may be hastened by improvement. Do
not let you be entering into a discussion which
most damage and may destroy your testimony to the
reality and acceptance of the theory one striking
example the more.

LONDON:
SPOTTISWOODES and SHAW,
New-street-Square.

THE END