THE MIRFIELD MURDERS.

DEFENCE OF REID.

LICENSE OF COUNSEL.—*(From the Examiner.)*—The most startling instance of the license of counsel that we can remember, almost transcending the exploit of Mr. Phillips in the defence of Courvoisier, has occurred on the Northern Circuit during the past week—if the reports that have appeared be correct. Two men, Reid and M'Cabe, were put upon their trial for the murders committed last summer at Mirfield. For one of the murders Reid had formerly been tried and acquitted. M'Cabe was now joined as an accomplice, on evidence that went to shew his having been seen in close conversation with Reid soon after the murder. He had also strengthened suspicion against himself by his own confused statements. The line of defence adopted by Reid's counsel, Mr. Seymour, was to charge M'Cabe with the murder, and so shift it by a very ingenious argument from off Reid's shoulders altogether. Mr. Justice Patteson's charge was strongly favourable to M'Cabe, but both the accused were found guilty. It then immediately transpired that before the trial Reid had made ample confession of the details of the murders *as committed by himself alone*; a confession meeting all the leading points of the evidence, so far as M'Cabe was concerned, but wholly exculpating him from the charge; and *that this confession had been communicated to Mr. Seymour, Reid's counsel, before the trial came on.* It remains to be seen what explanation Mr. Seymour can give for having, with this confession in his possession, sought to brand M'Cabe with the guilt of a murder which he knew to have been committed by his client. Will the *Law Magazine* venture to assert that *this* comes within the proper license and privilege of counsel?

(From the Daily News.)

Some sharp remarks have been made on the conduct of Reid's counsel at the trial with reference to certain portions of the evidence adduced against M'Cabe. It is asserted that Mr. Seymour had been previously informed of Reid's confession, exculpating M'Cabe from any participation in the crime. If this statement be strictly true, the line of argument taken up by that gentleman in his defence of Reid was utterly unwarrantable and inexcusable. He will, in this case, have sought to shift the charge of murder to M'Cabe from his client, with the knowledge that he had deliberately and unequivocally declared his own guilt and M'Cabe's innocence. Such an attempt to sacrifice an innocent man in order to procure the escape of a murderer, would be even more culpable than the notorious effort to transfer the imputation of Lord William Russell's murder from Courvoisier to the innocent maid servant, till now the most revolting piece of Old Bailey effrontery on record. The counsel for Courvoisier might lay the flattering unction to his soul that nobody was likely to believe his insinuation against the maid servant. But the counsel for Reid saw M'Cabe placed in circumstance of suspicion likely enough to predispose the jury to believe in his guilt.

We speak hypothetically, for, in the present hear-say state of public knowledge respecting the confession attributed to Reid, and Mr. Seymour's knowledge of it, we are reluctant to believe that a member of a learned and respectable profession can have so far forgotten what he owes to himself and others. But even though it should ultimately appear that Reid's confession is less distinct in its exculpation of M'Cabe than has been reported, or that Mr. Seymour was ignorant of it, still we must say that, in attempting to persuade the jury that M'Cabe was the murderer, he exceeded his limited service, and gravely compromised the rights of that individual.

Mr. Seymour's business on the trial for the Mirfield murders was to do his best for his client Reid; he had no right to throw out imputations or insinuations against M'Cabe. That person, even assuming him to be guilty, was entitled to be judged on the strength of the evidence, and of what the counsel for the prosecution and defence, under the correction of the Judge, might say of it. Mr. Seymour had no right to say a word about him, or the court to hear it. Had Mr. Seymour been in the witness-box, his hearsay evidence would not have been listened to; had he come forward, without being retained for the prosecution, to speak as a counsel against the accused, he would not have been listened to. What right does his being retained for the defence of one of the accused give him to volunteer an appearance as prosecutor of the other?

In the most lenient view of the case, Mr. Seymour has been guilty of a grave abuse of his privilege as a barrister. If the more aggravated view shall be ultimately substantiated, it will not be easy to find language too strong for the condemnation of his offence.

The following letter has been addressed by Mr. Wm. Digby Seymour, the counsel of Patrick Reid, the murderer, to *The Times* newspaper, in justification of his conduct at the trial at York, wherein he attempted to fix the crime upon M'Cabe, though Reid had previously to the trial made a confession, declaring that M'Cabe was innocent of the crime imputed to him, and of all participation in the murder, which was communicated to Mr. Seymour:—

TO THE EDITOR OF THE TIMES.

SIR,—Some of the daily papers, from a disposition, no doubt, to perform a public service, have thought right to censure the line of defence I considered it my duty to adopt as counsel for Reid on the recent trial for the Mirfield murders, at York. The *Examiner* has, also, a strong article on the subject, in which it is stated, that I, being previously in possession of a full confession from Reid which wholly exculpated M'Cabe, endeavoured by an ingenious argument to shift the burden off my client to the shoulders of a man I knew to be innocent.

The press is a formidable commentator upon the conduct of any man, but before conclusions are drawn, facts should be clearly ascertained.

That I was in possession of a statement made by Reid on the eve of his trial is perfectly true; that from this statement I had reason strongly to presume Reid's guilt is also true; but that a statement or confession was made or communicated to me irreconcileable with the supposition of M'Cabe's guilt, or sufficient to satisfy any impartial mind that M'Cabe neither acted as principal or accomplice, I deny. Certain questions were submitted to Reid, chiefly as to the character of the new evidence against him, and with a view to the cross-examination of some witnesses for the Crown. His replies tended very much to inculpate himself, but did not at all exculpate M'Cabe from the suspicion of being some way engaged along with him. And these replies moreover were so contradictory in themselves, and so totally opposed to the evidence for the prosecution, that I did not believe them, and in no single point did I vary the line of defence I had already resolved to follow.

A confession, full and satisfactory, has since been made, and M'Cabe's life will no doubt be saved by it; but with this confession I have nothing to do.

Now, Sir, as to my argument, which the *Examiner* calls "a startling instance of license of counsel."

The evidence offered on the trial as to time and other matters pressed with about equal weight on the two prisoners; but M'Cabe's stories and conduct, and equivocation, strengthened the case as against him. No concert whatever was proved between them; both prisoners admitted they were at Wraith's about the time of the murders; M'Cabe at the last trial swore that the man he saw at Wraith's was Reid. What course was open to me? If M'Cabe was innocent and spoke truth, the man he saw was my client. If M'Cabe was guilty, and no concert was made out, then was it not clear my client was innocent—clear, I mean, as a reasonable argument drawn from the evidence before the jury?

And now, Sir, assuming that to be true which I deny, and admitting for a moment that a "full confession" was made to me "previous to the trial which wholly exculpated M'Cabe," I am yet to learn that I would be deserving of blame for endeavouring to throw the whole guilt upon M'Cabe if the evidence, by which the jury were bound to decide, warranted such a course. I am yet to learn that this would be either morally or professionally wrong. When a counsel accepts a brief for a prisoner he becomes, in my opinion, bound by a twofold obligation. I esteem it in the first place to be his strict and solemn duty to keep faithful to his client during the trial, or pending it, and to hold his secrets as a religious trust. They are *commissa fidei*—they must not be violated—they must not be exposed.

In the next place, it is equally his bounden duty to frame the best defence in his power from the evidence given at the trial. If a prisoner confess his guilt, or makes admissions which tend to criminate him while they acquit his fellow prisoner, is his counsel to hurry into the witness box to ruin and betray him? If not, then his confession is not the evidence; and does a counsel overstep his duty who adopts a line of defence wholly irrespective of that confession, but which is founded on the evidence before the jury, borne out and justified by it? When a veto is put upon this exercise of a counsel's discretion—when, instead of his argument being weighed and measured by the nature of the evidence, his motives and private opinions are publicly submitted to a rigid moral test—the relation of client and counsel will be deranged, and their mutual confidence interrupted; the independence of the bar will be violated, and the principle of advocacy will be abolished altogether.

Your obedient humble Servant,
WILLIAM DIGBY SEYMOUR,
Of the Middle Temple, and Northern Circuit,
Barrister-at-law.

Dec. 29.