

evidence he would have to direct the common jury that they could not convict. Just at the conclusion of his address his Honour was, if possible, yet more emphatic. He said, "There was in this case a total absence of evidence directly connecting the accused or any of his family with the transaction—nothing but conjecture—no direct evidence at all; and it would be an exceedingly unsafe thing, to his mind, if the liberty of any man were to be put in jeopardy on such evidence." Nor did his Honour omit pointed reference to the committal of the prisoner in the lower Court. He said, "It was remarked at the committal that it would be better for the accused that he should go to trial. But these proceedings were not instituted for the sake of the accused; and a man's character was better guarded by refusal to commit, as acquittal in this Court might merely mean that the charge was not proved." If that is not an intimation that there should not have been a committal, we have lost the faculty of understanding plain language. Thus, then, the matter presented itself to the mind of the learned Judge: that McCarthy ought not to have been committed; that the Grand Jury ought not to find a true bill; and that if the case went for trial the Court would direct an acquittal. The authorities, when they arrested McCarthy, knew even less than is now known; and we may therefore supplement his Honour's dictum by saying that not only should there have been no committal, but that McCarthy should not have been charged with the crime, and consequently not have lost his liberty for a moment. He is a man of good reputation and of fair standing, and it was due both to him and the community of which he is a member that the special features of his case should be clearly stated and criticized.

*Approximate Cost of Paper.*—Preparation, not given; printing (1,200 copies), £12 15s.

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By Authority: SAMUEL COSTALL, Government Printer, Wellington.—1895.

*Price 9d.]*