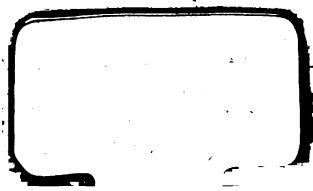
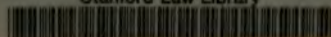


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Mathew, Henry William, plaintiff.

Exchequer Nisi Prius.—Michaelmas Term, 1851.

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# AUTHENTIC REPORT

OF THE

MOST IMPORTANT AND INTERESTING

## TRIAL

OF

MATHEW *v.* HARTY AND STOKES,

BEFORE

THE RIGHT HON. THE LORD CHIEF BARON

And a Special Jury,

ON THURSDAY, DECEMBER 11, 1851,

AND THE FOLLOWING DAYS.

REPORTED BY

S. N. ELRINGTON, JUN., ESQ.,

AND

W. P. CARR, ESQ.,

BARRISTERS-AT-LAW.

DUBLIN :

JAMES M'GLASHAN, 50, UPPER SACKVILLE-STREET.

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## P R E F A C E .

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THE social and legal importance of the following trial, not only warrants but demands its publication in an authentic form. No trial has, for a great number of years, excited so much interest. The mysterious aspect imparted to the case; the extraordinary revelations made; and the very painful position in which the plaintiff and the principal defendant were placed, would have more properly formed themes for the graphic and imaginative pens of *Dumas*, or *George Sand*, than for the inquiry of a solemn tribunal. The circumstances connected with the trial were indeed strange, "stranger than fiction." To find an aged gentleman, whose character as a medical practitioner stands high in our city, compelled to appear in a Court of Justice, and avow, for the first time, that the young man, whom he had imprisoned in a lunatic asylum, was his illegitimate son, is very far from being an ordinary occurrence, and is sufficient, in itself, to awaken the liveliest emotion. The case is intensely interesting to every reader, in every part of the world, almost as much as in our own city; it is interesting to the members of the Bar, the medical profession, the laborious student, who burns the midnight lamp, too frequently to the sacrifice of health and happiness, and to the reading million, who will find this case a romance in real life. It is not our province to offer an opinion as to whether the verdict was or was not according to the law and the evidence; enough for us to feel that considerations of public importance were involved in the issue to be tried; that many useful and practical suggestions are afforded by it; and that, perhaps, it may not be undeserving of the attention of those whose legislative position would enable them to render more perfect the laws ap-

plicable to such cases, and more satisfactory the superintendence of asylums designed for the reception of those whose minds are diseased. If a collected and accurate report of these proceedings did not appear, some one would be open to the imputation of having neglected to make the effort to do justice to the brilliant talents displayed upon the occasion—one, which above all others that has occurred for a long period, evinces most clearly, how essential it is to the interests of society, that there should at all times exist an educated and independent Bar, consisting not merely of men skilled in the routine of legal practice, but of those whose education and intelligence enable them to cope with the difficulties of a case like the present, and to do justice to the many questions of general interest which it may become necessary to discuss. We believe there is no doubt that hitherto no great occasion has arisen which required the exercise of vast talents, extensive erudition, sparkling wit, consummate tact, and that ingenuity and dexterity indispensable at *Nisi Prius* trials, that the Irish Bar was not found prepared to furnish a host of gifted and powerful advocates, whose qualifications might bear comparison with those of any Bar within, or out of, her Majesty's dominions. And it is to be hoped that, notwithstanding the obvious tendency of modern legislation, such will ever continue to be the case. Every exertion and research have been made in order that this Report should be as complete, correct, and authentic as possible, and it is believed that it is so. If anything, however, be omitted that should have been inserted, or if any inaccuracies appear throughout it, the extent to which it runs, and the necessity of producing it expeditiously, will be regarded as a sufficient apology for those by whom it has been published.





# REPORT,

&c., &c.

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HENRY WILLIAM MATHEW *v.* WILLIAM HARTY, M. D.,  
AND ROBERT STOKES.

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THE gentlemen constituting the special jury were—Joseph Casson, Mathew Pollock, Edward Higginbotham, William Cockburne, William Vance, Edward Gatchell, James Allingham, William Thompson, Frederick C. Ferguson, Robert Graves, Henry Peat, and William Andrews, Esqrs.

*Mr. Richard Armstrong* opened the pleadings. The plaintiff was Mr. Henry William Mathew; the defendants were Dr. William Harty and Mr. Robert Stokes. The declaration contained three counts: The first for an assault and false imprisonment for a period of fifty-two days. The second was for an assault and false imprisonment in a more general form. The third count was for a common assault. The defendant pleaded the general issue; and also a special plea, viz., that on the 31st of January, and for sixty days next following, the plaintiff was lunatic and of unsound mind, and in danger of doing injury to himself, and that it was necessary, for his protection and cure, he should be confined and put under medical treatment; and therefore for his protection and cure, and in order to his medical treatment, he was confined in Swift's Hospital, so long as was necessary for such medical treatment and cure, and no longer. To this the reply was *de injuria*.

*Mr. Whiteside, Q.C.*, then stated the case for the plaintiff. He said—Gentlemen of the Jury, this action has been brought for assaulting, imprisoning, and continuing in imprisonment for a very long period of time, the plaintiff. The defence is, that the defendants did not commit the illegal acts ascribed to them. This is a formal plea; but the justification is, that the plaintiff was a dangerous lunatic. The case which I have to state is very mysterious. The plaintiff is a scholar of the University of Dublin; he has attained literary distinction by his unaided energy and talent. He had been a sizar, and as such is not the less entitled to the consideration of a jury. His life has been chequered and a troubled one; without a shilling in his pocket he was

upon the high road to a competency if not to a fortune, when his hopes were, so far as the defendants could destroy them, destroyed by their acts. The defendants are Dr. William Harty, a gentleman of station and knowledge in this city, and Mr. Robert Stokes, who, in this matter, is a confederate of Dr. Harty. I believe that he has some situation in a public department in Dublin, and was the proprietor, and I believe is, of some establishment for imbecile persons near Drumcondra. It would appear in the progress of the trial that Stokes was not merely the friend, but—meaning him no disrespect—the creature of Harty, to do his bidding and execute his will; and it will appear that he did, in obedience to the direction of Dr. Harty, aid in the illegal outrage perpetrated upon the person of the plaintiff. The defence in the case is, that the plaintiff was insane. The averment in the plea is, that he was, and is, a dangerous lunatic. I cannot state exactly who the parents of the plaintiff were or are; the plaintiff could not do so; Dr. Harty might. The longest thing the plaintiff can recollect of himself is, that he was at a school in the neighbourhood of London. He was educated there until he was nearly seven years of age, and he was in the habit of spending his Sundays at a house, in which resided persons, whom at that time he believed were his parents, his brothers, and his sisters. Even at this early age Dr. Harty knew him, and paid out of some fund, which he gave the plaintiff to understand had been deposited with him for the purpose, a sufficient sum for his tuition and education. Dr. Harty seemed to have exhibited towards him the care of a person who had been placed in a position of an intimate friend or relative by, perhaps, other persons, who saved him harmless from all responsibility as regarded expense. The plaintiff was placed at a school situated near Arklow, the principal of which was a person named Harris. That gentleman is dead, and a reverend gentleman, now in a parish in Dublin, was also there, and was well acquainted with his conduct and disposition. Having continued there for a few years, Dr. Harty removed him to the Feinaiglian Establishment, of which Dr. Harty himself was one of the committee. He was placed in that school about October, 1834, and was there for about twelve months, and was then removed by Dr. Harty to the College of Kilkenny, where he remained for five or six years. When he left the college he was fifteen years of age. He was occasionally brought to Dublin, and he passed the holidays with an old lady, Mrs. Sherlock, who was the matron of the Blue Coat Hospital, with whom Dr. Harty was acquainted, and who acted towards the plaintiff with much kindness and attention. In 1841, at this early age of fifteen he entered College as a pensioner. His College expenses were no doubt paid under the same mysterious circumstances by Dr. Harty. He was told that as his expenses would be great, he ought to read for a sizarship. The Jury were no doubt aware of the distinction between a pensioner and a sizar; the latter paid little or nothing, received considerable emoluments from the University, and very great classical knowledge was required from him. The defendant certainly evinced a disposition that the plaintiff should be properly educated, but acted towards him sometimes with harshness, reproving him for idleness, at an age when it was impossible to expect a greater amount of diligence. When the plaintiff was apprised that he should read for

sizarship, he undertook to do so. In the year 1842 the defendant removed him from the College of Kilkenny to a house in Dorset-street, which was occupied by Mr. Stokes. There were at that time some persons living in the house of Mr. Stokes, patients of Dr. Harty, and said to be of imbecile mind. The plaintiff read for sizarship, but did not succeed, as many older and stronger men than he was had done before him. He resumed his studies, and in 1843 obtained the first sizarship, having answered the best of the numerous candidates who sought to obtain that position. He resided with Stokes till November, 1843, when he was removed to College; thenceforward the visits of Dr. Harty became more rare; he, however, occasionally called upon him there, and reproved him for want of attention to his studies. He was now left to shift for himself, and accordingly he taught pupils. He was to read for honors; he was to feed and clothe himself by the scanty earnings which he derived from those who were willing to submit to his tuition. He had no friend, no relative, no patron, and few companions; and when he began to reflect upon his own condition in life, as his reason acquired strength and his judgment became firm, I can well understand that his reflections must have been of a very gloomy character. In the years 1844-45 he laboured in the education of pupils, wholly unassisted by the defendant, and not often visited by him. He also contended for University honors; he obtained in the first year a first-class honor; in the same year another first-class honor; in the second year, while frequently he had not a sixpence in his pocket, two second class honours; and so he struggled, and so he strove, till his health gave way. In October, 1845, he got ulcerated eyes from excessive reading, and for several months he was in danger of losing his sight. His general health was likewise impaired. He suffered also from despondency; he became dispirited and cheerless. For the purpose of recovering his health he went to board and lodge at his own expense with Mr. Stokes, upon the Drumcondra-road. There he recollected the defendant on one occasion saying to Stokes, "He is now just twenty-one, and if any property were coming to him he should get it;" but as often as he applied to the defendant for an explanation of their early and singular connexion, the fact was evaded by the defendant. On one occasion he was told that he was born at Monmouthshire; at another time he was told that he had been born somewhere near Kingstown. He recovered his health, and went to the house of a Mrs. Townsend, near Delgany, for the purpose of instructing a young gentleman. He afterwards returned to his rooms in College, and commenced reading for scholarship. He had no means; therefore he could not exist in the University; and he was obliged to take a tuition at a school in the country. He was there for two months, which brought him down to the month of October 1848, and from that period to the summer of 1850 it was a most remarkable fact that he seldom saw the defendant. The defendant seldom called upon him for a space of two years, and when he did, he upbraided the plaintiff with two things—poverty and indolence. Now his poverty he could not help, because he did not get any fortune from a benevolent friend; and as for his indolence, if he were so, it was brought upon him by ill health. For two years and a quarter the defendant left this dangerous

lunatic to commit any violent act he might be disposed to commit; but though he suffered much from the vicissitudes of life, he did not inflict injury upon any one. My learned friend, Mr. Martley, may tell you that Dr. Harty patronized the plaintiff. Now a patron is one who leaves you to struggle in the water when you want assistance, and encumbers you with help when you have reached dry land. This is Dr. Johnson's matchless definition of a patron. Accordingly for two years and a quarter the present plaintiff was left to struggle with adversity. In the October of 1848 he was employed for a short time in the family of a highly respectable gentleman in Wicklow. Wherever he was engaged he conducted himself with propriety and decorum, and was much respected. From thence he went to a school at Newport, in the county of Tipperary, conducted by a Mr. M'Gowran; there he remained for three months; he then returned to College, and remained there till September, 1849. During that time he had no money, no friends, no pupils, and he incurred debt to a person very well known to College men—named Foley. My learned friends who are not so long from the University as I am, smile at the recollection of Foley. He was a most indefatigable person, who supplied the students with dinners, suppers, and occasionally a little money; he was altogether a very useful man, and was always to be found, when not engaged in his culinary preparations, lounging about, seeking whom he might devour in the shape of a creditor. (A laugh.) He was ever on the alert upon the eve of a vacation, and particularly active at the commencement of Michaelmas Term. The young Foley of this day follows, no doubt, his father's footsteps, and has the same lively turn. (A laugh.) The plaintiff incurred a debt to Foley, amounting to £8. This was the debt which brought down upon him, not the censure, not the indignation, but the vengeance of the defendant. At this time the plaintiff was very much depressed; he was very desponding when he reflected upon his unhappy condition, and became aware that if he lost his scholarship he lost everything that might elevate him in life. He incurred that debt, and it depressed him; he became hopeless, and when hope deserts us we are indeed incapable of exertion. They say that the plaintiff was sluggish and depressed, forlorn and disconsolate, and so he was; and those who have read of the struggles of genius know that many a man has forced his way to rank and station, who has passed through sufferings that none but himself could describe, because none but himself has felt. He applied for aid to the defendant, who told him that a sum of money had been left with him for his education by a friend, who should be nameless, and that the money had been long since exhausted. In March, 1850, there appeared in *Saunders's News-Letter*, an advertisement for a tutor, and the plaintiff eagerly grasped at the hope of obtaining employment; and he did obtain it in the family of Rev. Mr. Bowen, the rector of a parish in Donegal, within four or five miles of the city of Londonderry. The examination for scholarship was to be held upon the 16th and 17th of May, 1850; he read for it and succeeded. When he had attained this position Mr. Stokes called upon him. It is always the case that when a man becomes prosperous he is congratulated on his success with si-



mulated sincerity. Indeed it is not necessary to read "Timon of Athens" to understand this. Mr. Mathew was advised by Stokes to call to see the defendant; he did so; he consulted him; and Dr. Harty advised him to accept the tuition; and promised to lend him £5, upon condition that Mathew would give him his I O U, to be paid in the course of the ensuing winter season. The young gentleman did accept the situation. Now he was not a boisterous, courageous, obstinate man, but had rather a gentle and yielding disposition; so he went to the country, and Mr. Stokes saw him to the coach office. He gave the key of his rooms in College to Stokes to give to Mr. Hall, a scholar of College; but Stokes prevailed upon him to allow him to keep the key, and with this he opened his drawers, and read his letters. He arrived at the house of Mr. Bowen on the 6th. That gentleman was within the precincts of the court, and he would, no doubt be produced. No case should succeed, unless it was bottomed upon truth. If the case was false, then the defendant should have a verdict; if it were true, and that Dr. Harty had done the acts described, then he should pay the penalty to the last shilling he possessed in the world, and Mr. Stokes, his confederate, should suffer with him. The plaintiff was received in the family of the Rev. Mr. Bowen with marked respect. He taught his pupils, from half-past seven in the morning till six o'clock in the evening, French, arithmetic, classics, history, and all the elements of education—a duty particularly repugnant to a scholar, and distasteful to a man who had read and appreciated the productions of antiquity, and particularly disagreeable to one who, perhaps, at the time, more required relaxation and repose. The very day after he obtained his scholarship, having read for it night and day, he began to labour for his bread. If Dr. Harty had the strong affection for the plaintiff, which counsel will no doubt represent that he had, he would, when he did condescend to visit him, have preferred recommending him to take a little recreation and repose, which would strengthen his body and invigorate his mind, before he commenced what was at best a distasteful occupation. There are two classes of persons who must be pitied—the tutor and the governess; the tutor not so much as the governess; but whenever you think of misery in its worst form, think of those who may be placed in such a position,—of those who may be exposed to insult and injury for which they have not any redress. Mr. Bowen did not act unkindly; he treated this young gentleman as he deserved to be treated, and I rejoice to say so. Gentlemen of the Jury, he found that the drudgery was intense; and after he was in the house one month he wrote a letter to the Rev. Mr. Bowen, expressive of his feelings in reference to the employment cast upon him, and his indisposition to continue in the capacity of a tutor. I have called attention to this letter particularly, because I understand that this letter is one of the strong facts to be relied upon, to justify the outrage that has been committed in the case. Mr. Bowen will be examined; I do not know what he will swear, but I have read his certificate; I have read his eulogium upon the talent and the moral character of the plaintiff, and by that certificate I am satisfied he will abide. Is there any gentleman who would recommend a worthless, immoral, incompetent, stupid, silly, or absurd person to educate youth in a gentleman's family? And when the

wretched defence, founded upon the word "desponding" in that letter, shall be resorted to for the purpose of covering and protecting Dr. Hartly from the consequences of his audacious violation of the liberty of my client, compare that with the acts of the parties, and the testimony of Mr. Bowen, and you will find, unless I am greatly deceived, that this gentleman never will fortify the rotten case to be relied upon by the defendant—the case of insanity—of dangerous lunacy, as recorded in this plea. Write that down, Gentlemen of the Jury; he is "a dangerous lunatic." My learned friend, Mr. Martley, shall not escape that; and however placid, composed, and goodhumoured he seems to be now, I will contend with him in this case, with all my energy, because I believe that my client has been treated with a most remorseless persecution. It is not for me to discover motives; I am not bound to search out motives; the plaintiff wrote this letter to Mr. Bowen; and he said to him, "I see your health is impaired, and my advice is—return to town; and as you are acquainted with Dr. Hartly, you will be restored to perfect health; after which you can return, and resume your labours in this house, where you have given so much satisfaction to Mrs. Bowen and myself." The plaintiff returned to town, and consulted the defendant, who told him that his liver was congested. I do not know whether the Jury ever heard of a man having been sent to a lunatic asylum because his liver was congested; but the defendant gave the plaintiff physic for his liver, and restored him to health. Not one word about lunacy was said during this time; and in August, one month after he had left the country, Dr. Hartly said to him—"Return to your work, you are quite recovered;" and accordingly the plaintiff did return to the house of the Rev. Mr. Bowen. I challenge the most scrutinizing inquiry into the conduct of my client while in the house of Mr. Bowen. Mark the 5th of August! If they rely upon that letter, my answer is, that after it was written, the gentleman to whom it was addressed received him back into his family gladly, to resume the important avocations of a teacher. He began to feel the labour disagreeable, and he disliked the restraint to which he was subjected. Upon one occasion he entered the school-room a quarter of an hour after the usual time; a remonstrance was addressed to him by some member of the family, and words were uttered that he had shown, towards the young people under his charge, apathy and ingratitude. He felt this remark, for he was grateful to Mr. Bowen for his courteous conduct. He retired to his room, and wrote to the Rev. gentleman a letter, in which he described his feelings. Mr. Bowen wrote to the defendants, and apprised them of what had passed, and the result was, that the plaintiff declared his intention of leaving the house. On that occasion the Rev. gentleman gave him a document, which I am not properly entitled to read, but—

*Mr. Martley.*—Oh, read it.

*Mr. Whiteside.*—No, then, I will not; I will take no compliment from you: I am in a most unforgiving spirit this morning. (A laugh). You understand why I don't read it; and if they shall produce the letter without producing a witness along with it, you will, Gentlemen of the Jury, treat the matter with that scorn which such a mode of conducting a defence well deserves. I will not tell you the contents of the letter,



Gentlemen, because it would be illegal to do so. He went to Desha's College, and determined to obtain a tuition; it was the dull sea of the year, and the business of College did not require his attendance in the University; he thought that he would procure a situation in the North of Ireland, a suitable tuition, which would be profitable and agreeable. He wrote to my distinguished friend, Dr. Sadleir, to Mr. Hall, and I believe to Mr. Stokes, also to Mr. Maskerry, to know whether he could do; and as a situation might offer in Londonderry, his friend considered that it would be a suitable place for him; and to Londonderry therefore he went. He quickly found that his finances would not correspond with his living in hotels, and accordingly, after the expiration of a few days, he removed to the house of a very respectable gentleman, and he permitted him to remain in the house. I believe that he stopped there for three weeks; that was in the house of Mr. McIntyre. He is here. We are particular about Londonderry, in consequence of the suspicions which we entertain that they intend to twist and pervert the most innocent transactions. He removed from thence to the house of a Mrs. McCaldish, and he there spent some weeks. He became acquainted with the young men of the house; they took something at dinner which he did not do, and therefore he preferred dining alone. He had a few acquaintances in Londonderry; they at once saw that he was a young man of education and talent; they found him thorough conversant with the classics, and his society was at once appreciated by the kind and good people of Londonderry. Amongst other persons most unluckily for my client, he became acquainted with Mr. Archibald Hamilton, the phrenologist, and as that gentleman was delivering lectures, he was caught by this so-called science and became very intimate with the professor. He talked and walked with him, he drew up the intellectual character of my client, he measured his head all round, and the plaintiff got "the character," which many a sensible man had done before him. As for the latter, I will not say much of them, for the characters drawn of them are, generally, a little exaggerated—(a laugh)—but the phrenologist fascinated the plaintiff for a time. This, Gentlemen of the Jury, is one of the grounds relied upon by Dr. Harty, to justify his thrusting my client into a lunatic asylum. Dr. Harty is, no doubt, a very learned man; won't say that too much learning has made him mad; but men quite as learned as the Doctor, are, and have been, phrenologists. I knew Dr. Combe; I conversed with him; he is the author of the best book on phrenology, and if I were to select a man who, almost more than any other I have met, was singularly gifted with the reasoning faculty, I would select Dr. Combe, for, by his writings, he has demonstrated intelligence and learning, and by his conduct has evinced the philosophy of his nature. But what are you to say of the doctor of the madhouse who presumes to pronounce a young man to be insane because he goes to hear a lecturer on phrenology, talks with him on the subject, reads about it, and becomes acquainted with its details? I draw your attention to the fact, because it will be proved that Dr. Harty called upon the plaintiff, and he (the plaintiff) gave him the character then drawn of himself, which corresponded with the extent of his liter-

attainments, and the indications he had given of his intellectual capacity. He has these written papers in his possession, and one of the badges of lunacy, one of the proofs of the plaintiff being of unsound mind, and of being likely to inflict injury upon himself and others, is that he is a believer in the science of phrenology. The plaintiff, while in Londonderry, got a very severe cold, and was confined to his room for a few days. Upon Thursday, the 29th of January, I should mention to you that Mr. Stokes wrote him a letter, which he never answered. Let me, however, assure you, Gentlemen of the Jury, that the law does not compel a person to answer a letter if he does not like to do so, and neither Hartly nor Stokes has upon that ground any reason to imprison him. I come now to another part of this case: while the plaintiff was dressing in his lodgings one day, in Derry, Stokes walked into his bed-room: he said to him, "I have come down to transact a little business upon my own account." That is fib the first; and, Gentlemen, it is indeed a bad cause when a man begins to equivocate. "You must make haste," says Stokes, "you must come to Dublin immediately; here is a letter from Dr. Hartly; read it; he has stated in it that unless you come to town immediately, and report yourself to the Board of Trinity College, you will be stripped of your scholarship; you will lose your emoluments, and may be deprived of preferment in the University." "Is that so," said the plaintiff, "is there any danger of my losing my scholarship?" that distinction which he had earned with such intense labour. "I will," said he, "though it is inconvenient now to do so; I will accompany you to town; but before I go I wish to arrange some accounts, I wish to pay some bills, and discharge some debts in Londonderry:" and this, Gentlemen, he did with an accuracy that will surprise you. His talent for arithmetic was very great. I do not know whether an incapacity for arithmetic and numbers is a proof of insanity, but I never knew that a proficiency in those branches of study was an indication of lunacy. (A laugh.) Having paid his bill and discharged his account, he prepared to accompany Mr. Stokes to Dublin. I should mention to you that Mr. Stokes wrote a letter in which he recommended the plaintiff to get a tuition in Londonderry, and told him that it might be a good thing to obtain a tuition in the neighbourhood of the locality where he was staying. My client having taken his farewell of the phrenologist, Stokes said to him just as he left, "That man is an impostor." "I don't know that he is," replied the plaintiff; and indeed of the two this Mr. Stokes himself is the more likely to be what he has described the phrenologist to be. They reached Dublin on the 30th of January, and upon that day Dr. Hartly immediately called upon the plaintiff, and received him as usual; that is, Gentlemen, he censured, scolded, and abused him for having remained in Derry, and he called upon him to pay back a portion of the £5 he had lent him. He took from him the £5, and upbraided him with the folly of his conduct, and he wound up, after demanding and obtaining from him the phrenological character, by upbraiding him with the debt which he owed to Foley. He dealt strangely with the plaintiff, who wished to go to his rooms in College the morning after his arrival. One fiction brought him to Dublin to secure his rooms in College, and another fiction prevented him from going there. They told



him, "Foley is upon the watch for you; if you go to College, Foley is at the gate with a bailiff, and you will be arrested; this will expose you to reprehension as a scholar; you will dishonour the University, and bring down upon your unfortunate head the censure of those in authority there. So be advised by me, and don't expose yourself to the remorseless designs of the inexorable, the implacable, the uncompromising Foley. (Laughter.) My client, Gentlemen, was alarmed; the picture of Foley, and the bailiff lurking at the gate, was daguerretyped upon his mind; he followed the advice given him, and remained at the house of Mr. Stokes. I told you, Gentlemen, that they got the key of the desk of the plaintiff. Foley had written to the plaintiff a number of letters for money, and in his desk they discovered these letters, which revealed the history of the debt. The plaintiff has a musical turn; very many men of intellect have that turn; I speak it with deference, under the correction of his Lordship—(a laugh, in which the Chief Baron joined in his usual bland, goodhumoured manner)—and I understand he could play upon the flute. Goldsmith worked his way through the continent, by his musical talent, without a shilling in his pocket, and like many another of our countrymen has left behind him a memorial of his genius and his misfortunes. My client felt a solace in his grief by playing upon the piano—and it would be rather odd if a taste for music were considered to be a proof of insanity. Upon the Friday, the plaintiff being so detained in the house of Stokes, the door was thrown open, and a gentleman walked into the room. Who is this gentleman? A very respectable man, I believe, a gentleman of station and knowledge, named Mollan—Dr. Mollan. He had never seen my client before; he had known nothing of his education, or of his past history, save and except what was told him by Dr. Harty; the plaintiff was in excellent health, and his spirits were remarkably good; they were always so, save when he feared to encounter Foley; and he was ever able to enjoy himself in that most innocent of all recreations—music. Dr. Mollan introduced himself with the statement of another fiction; he represented that he had been sent down by Dr. Sadleir to make inquiries relative to him; when the plaintiff heard the name of Dr. Sadleir, it awakened in his bosom feelings of respect. Dr. Mollan asked him a few questions:—Why he had left Mr. Bowen's, and how he was in point of health? "To what," said he, "do you ascribe the improvement in your health?" "I ascribe it," said the plaintiff, "to the influence of the country air, to exercise, and amusement; and also to the mental relaxation of light reading. I ascribe my restoration to health more to those causes than the pills which were recommended by Dr. Harty, and which I did not take, acting upon the advice of a very learned physician before I left Londonderry, not to swallow drastic pills. (Laughter.) My client described the whole matter to him, and Dr. Mollan left the house; he bid him a good morning and went away. After that my client put on his hat and walked to the Botanical Gardens: he there saw the gardener, and conversed with him about the Latin names of the plants; he returned to the house of Stokes, and spent the

evening in company with a clergyman. Upon Sunday, the 2nd of February, the plaintiff went to the Bethesda church, and in the evening he went to church a second time, as was his custom. On that night he went quietly to bed, not apprehending what his fate was to be upon the ensuing day. Upon the 3rd of February Mr. Stokes produced a note from Dr. Harty, stating to him that the plaintiff's implacable enemy, Foley—(a laugh)—had discovered his return to town, and was searching for him; and, therefore, it would be better for him to retire for a few days to the house of a friend of Dr. Harty's, near the King's Bridge, and remain there till—as the Doctor was pleased to express it—"the storm blew over;" and if he packed up his clothes, the Doctor would call for him at eight o'clock in the evening. Accordingly, at the hour specified, Dr. Harty, true to his appointment, called upon the plaintiff, and Stokes ushered him up to the room. After a short time, they drove off in a covered car, as it were to the house of a friend: they drove to the asylum. "This," said the plaintiff, "looks like a public institution; what building is this?" Dr. Harty did not say anything. The door was thrown open; they were requested to walk in. Dr. Harty introduced the plaintiff to Mr. Cumming, who received him, looking at him very significantly. The defendant (Dr. Harty), Mr. Stokes, and Mr. Cumming disappeared. "Where is Dr. Harty?" said the plaintiff. "He is gone." "What place is this?" "It is a place for patients." "I am not a patient; what kind of patients?" "Weak-minded patients." "What do you call this place?" "Don't you know it is Swift's Hospital for madmen?" "Send for Mr. Cumming immediately," said the plaintiff. "Oh, nonsense," was the reply; "go to bed." "I insist upon seeing Mr. Cumming." "Go to bed," was the answer. "I never go to bed at eight o'clock in the evening." "You will go to bed here at eight o'clock," said the keeper. He was then brought up to a cell, his clothes were hung up outside, and he was confined for the night.

Now, Gentlemen, these defendants will be upon their trial here before you, and they must tell you, not upon surmise, conjecture, or false representations, but upon facts, the grounds upon which they have dared to imprison in a madhouse the young gentleman who was as good a scholar as, if not better, than themselves. The plaintiff was aroused in the morning, and the first person whom he saw was Dr. Cusack, a most distinguished medical man, and one of whom the country should be proud, for his scientific abilities, for his learning, and for his humanity. It is necessary to state clearly the course of practice in the madhouse: the law of the country, to protect the subject from the oppressions and cruelties formerly practised, requires, before a person can be thrust into a madhouse, that there should be the certificates of two medical men, declaring and certifying that the party is a dangerous lunatic; and no medical man, unless persuaded of the truth of what he certifies, will sign a certificate that must deprive a man of his birth-right and personal liberty; no man will put his hand to a document, that will subject a party to the greatest outrage, and expose him to be branded as a lunatic, divested of his personal liberty, and stripped of those personal enjoyments that made



life happy, dignified, and desirable. The visiting physicians of an hospital of this kind, knowing the law, take it for granted that the medical men by whom the certificates have been signed have acted with as much circumspection, and scrupulous adherence to duty, as they themselves would have done, and have carefully examined the patient before they signed the certificate, and consigned to a madhouse their fellow-mortal; therefore, Gentlemen, you are not to be surprised at what took place with reference to Dr. Cusack; but my client complained, like a sensible man, to Dr. Cusack, when he found that he had been confined in the asylum. Dr. Cusack asked him if he had been long ill, "I have not," said the plaintiff, "been unwell at all; not in the least, I assure you." The Doctor looked at him, and no doubt regarded him as a poor gentleman who was under the delusion that he was possessed of his senses. (A laugh.) My client addressed him upon the fact of his being confined. Dr. Cusack said, "You will be taken care of, I presume;" and he walked away. The plaintiff will tell you that he was never unwell; and I am quite satisfied that he was not so, either physically or mentally, at that time. My client had to controul himself in this madhouse as best he could. Reflect, Gentlemen, upon his condition. He had no father, at least one who would interfere to protect him; he had no brother, he had no relative, no friend; he was defenceless and unprotected. In this condition he is thrust into a madhouse and left there to pine—to become mad—to have the despondency under which, from casual ill health he was labouring, increased; to have his mind weakened, and to endanger the destruction of a fine intellect. Oh! nothing, Gentlemen, but the strength of that intellect which the Almighty had given to him, and which never, for a moment, had been interrupted or broken, could have sustained him throughout his sufferings, together with the calm consciousness that, however for a time he might be imprisoned and oppressed, the day of retribution would assuredly come. And that day, Gentlemen, has arrived. For two or three days he was left in the hospital, unnoticed by any body in the shape of a friend; but I must discriminate, I must do justice to the keepers, I must do justice to the servants and the caretakers, and one and all treated him with civility, looked at him with surprise, heard him with astonishment converse, walk about, and talk, just as he had done through life. I call upon them to produce Dunne, the man who brought him to church. The defence here adds tenfold to the wrongs perpetrated upon my client; it is a falsehood that this young man was, when he was placed in this asylum, a "dangerous lunatic." Dr. Hartly knew he was not a lunatic, he knew he was a scholar and a gentleman; he knew that wrongfully, falsely, wickedly, and audaciously, he interfered with the liberty of the plaintiff, who now demands at your hands that justice which heretofore has been denied him. Two or three days afterwards, when Dr. Hartly called upon him, he said—"Do you know where you are? You have been," said he, "placed here for two reasons; one reason is"—and I can scarcely state this with gravity, Gentlemen—"one reason is, to obtain security from the bailiff of Foley; the other reason is, that a cure may be effected." It is a curious thing about the case, that they impeach the capacity of one who has given an

account of himself that has been peculiarly minute ; a young man of a peculiarly retentive memory—a memory, Gentlemen, that would do honour to any man living. Two or three days after the imprisonment of the plaintiff another medical functionary—Surgeon White—an Inspector, a full Inspector, called at the asylum, and saw the plaintiff. What is the meaning of an Inspector who does not inspect? I believe it was his duty rigidly and scrupulously to inspect the asylum. It is one of the singular facts in this case, that the plaintiff appealed to every one to whom he could appeal. He accosted Mr. White ; he had half an hour's conversation with him ; he remonstrated with him upon his detention ; he spoke to him as calmly and as temperately upon his condition, as it was possible for him to speak ; and Dr. White said, at the close of the conversation, that he was perfectly persuaded of the sanity of the young man, and he added, I will do all I can to make your stay here as short as possible. What is a man to do if acts of sanity are to be taken as evidence of insanity? If his language be reasonable and discreet, what is he to do to prove that he is possessed of reason? The Doctor walked away ; then the plaintiff besought that he might be removed to some more commodious place to sleep in ; but he was put with two other patients into a cell. I will draw attention, Gentlemen, to another doctor—a man of the highest character, and one whom I greatly respect, although I cannot much compliment him upon his judgment in this matter. Dr. Croker was a regular attending physician, and paid more attention to the patients than Dr. Cusack. He never appeared, I am instructed, he never came within the reach of the plaintiff, that the plaintiff did not address him in gentlemanlike terms, and complain of his imprisonment ; Dr. Croker latterly seemed rather to avoid the plaintiff, and the plaintiff believed that the mind of Dr. Croker had been poisoned by Dr. Harty, and that he had adopted the views of Dr. Harty. On one or two occasions, Dr. Croker referred him to Dr. Harty, and Dr. Harty, Gentlemen, referred him, in his turn, to Dr. Croker. (A laugh.) Once a week Dr. Harty called at the hospital, and what, Gentlemen, do you consider was his object?—why to argue with, and convince the plaintiff of his insanity : “the best proof,” said he, “that you can give of being sane, is to admit that you are insane.” (A laugh.) These are the very words : “The best proof of capacity is to admit incapacity. (A laugh.) “I will never do that,” said the plaintiff ; “you must,” replied Dr. Harty ; “if you do that I will begin to have a good opinion of you.” (A laugh.) He then said to him, “What do you think everybody must have concluded of your conduct? they could only think you were a fool or a madman ; nobody could take you to be a fool, therefore you must be mad.” (A laugh.) This scientific gentleman divides mankind into two classes—fools and madmen. Fools must be left to the mercy of Providence ; madmen the Doctor himself will dispose of. (Laughter.) The plaintiff told him that he was acquainted with one or two physicians in Derry, and they never thought him mad ; “Oh !” replied the Doctor, “I know more about you than they do ;” but ridiculously enough he enters into a pecuniary settlement with the madman. “Now,” Sir, “said he, “when

will you be able to pay Dr. Sadleir all the money he kindly advances for keeping you in a madhouse?" They did not give him much physic in this asylum, a seidlitz powder or two, and a shower-bath so; but a most marvellous prescription for a madman was provided the Doctor; and what, Gentlemen, do you think it was? Why, "Stac Optics," "Lloyd's Mechanical Philosophy," "Brinkley's Astronomical Cicero de Officiis," and the second volume of "Stock's Lucian." (Laughter.) I admit the value of the prescription; not one amongst mad doctors could have provided food for the mind of a more useful and instructive character. These were the books that were laid before him:—"Mechanics," "Optics," "Cicero," "Lucian"—one of the best books of antiquity—was given to him, and he was told to improve his mind and refine his taste. Where, Gentlemen? In Swift's Hospital (Laughter.) A more signal proof of their conviction as regards his sanity could not be given; nothing more did they prescribe for him. Dr. Harty called upon him and said—"If you read hard;"—read hard in a madhouse, Gentlemen—"read diligently, and prepare yourself for the next examination, I will let you out to attend it; but if you do not take care of yourself, you will be here for the rest of your life. At last the plaintiff thought he was to stay in the asylum only one month but five, six, seven weeks passed, and still he was confined as an inmate. At last he thought he might contrive to escape. Amongst the servants in the asylum was the son of a cook named Holah, a good-natured boy, who was in the habit of being about the grounds; he got into conversation with the plaintiff, and his mind being unpoisoned, he came to the conclusion that he was talking to as sane a gentleman as any in her Majesty's madhouses. The plaintiff asked the boy if he could procure him pen, ink, and paper; he did so, and the plaintiff wrote a letter directed to the most eminent and distinguished divine, the Rev. John Gregg, of Gardiner street church, describing his condition. He got an answer from Mr. Gregg that he had received the letter, but, naturally enough, as the letter emanated from Swift's Hospital, although he did something, he did not take any active measures to procure the liberation of the plaintiff; and I am sure if he had known the real state of the case, his humane and pious disposition would have at once induced him to interpose. Dr. Harty heard of this letter, called on the plaintiff, and asked him his reason for writing it. This attempt to obtain his liberation having failed, my client was left to his own resources. There is a Board of Laymen who are uneducated in medical science, whose duty it is to watch over the hospital and superintend its management: Mr. Law is one of the members. The moment the plaintiff heard of the existence of this Board, he waited on Mr. Law, and explained to him his condition. He told him freely what I have stated, and Mr. Law said to him—"Do you really consider that any person would put you in an asylum if you were not mad? He spoke kindly to him, he acted towards him with the utmost urbanity and good breeding. The plaintiff wrote another letter; he wrote a letter in the Latin tongue to Mr. Hall, a scholar of the University, and Holah conveyed it to Mr. Hall. That gentleman called upon him, and he came to the c

clusion that a more sane man was not in the kingdom. He told him that he would call upon his tutor and obtain his liberty. The plaintiff wrote a letter to Dr. Sadleir; it was written rather sharply, not in the terms in which it should have been written to his tutor, and this will explain the reason that the letter was not delivered by Mr. Hall to Dr. Sadleir. Dr. Harty represented to the plaintiff that Dr. Sadleir had advanced the money, and the plaintiff consequently felt irritated towards him, and he wrote a letter couched in terms of which Mr. Hall disapproved. "This letter," said he, "is not in the tone in which you should write to your tutor, and you must address a letter to him in quite a different shape and form." Dr. Harty heard that a College friend had discovered where the plaintiff was, so he went to him and said—"You are improving very much, and now I tell you to beware, you shall be watched, every movement of yours shall be watched." The hour of retribution has arrived, and he shall answer for his conduct with every shilling which he can afford to pay—he and Stokes. I don't say that Stokes is as culpable as Harty, but he is a confederate, and a party to this most infamous conspiracy. Upon the evening of the 27th of March, Stokes called for the plaintiff, in a covered car, and took him to his house, where he slept; next morning Harty called upon him and said to him, "I have received £15 upon your account from Dr. Sadleir, and I must give him an account; he then gave him a balance of £2 6s.; he charges the plaintiff £5 for sending Stokes down to Londonderry; 1s. 6d. for taking him to Swift's; he made up the account, and wished the plaintiff a good morning. There is another act in this drama which I will now disclose to you: while the plaintiff was at Londonderry, before Dr. Mollan had examined him, before he set foot in Dublin, Dr. Harty wrote to Dr. Sadleir, in these terms:—He had to request of him as the tutor of Mr. Mathew, and a Fellow of the University, to apply to the Board, as an act of humanity, to allot a pecuniary stipend for the sustenance in a lunatic asylum of Mr. Mathew. Dr. Sadleir, believing implicitly what Dr. Harty told him, and acting upon the opinion of one who had been particularly distinguished for his success in treating insane persons, made an application to the Board, and they, with that humanity by which they are distinguished, made an order that £30 or £40 should be allocated for the support of this unfortunate scholar. The Board advanced the money benevolently, kindly, affectionately, liberally, and it is repaid out of the hard earnings of my client. Dr. Harty fearing the consequences of his act, said to the plaintiff, "I am an elderly man, and I do not wish to be troubled." Well might he fear that he would be. The unfortunate young man waited upon Dr. Sadleir; he was full of respect and gratitude to him; he had discovered the whole truth, in reference to the manner in which his name had been made use of by misrepresentation, and the whole facts burst upon him. He went to Harty to expostulate with him, but Harty cut short the interview. Dr. Harty called afterwards at the College, and he found in the plaintiff's room the boy Holahan, of Swift's. The Doctor was in a state of trepidation, and said to the plaintiff, "Why have you any one from the asylum about you? what are you doing with Holahan?" and the plaintiff replied, that

he thought fit to see him. He also presumed to insinuate Harty had no right to stop £5 for the journey of Stokes Derry. "I will not," said Harty, "enter into any further communion with you; this conduct is very disrespectful." (A law Having described the facts of the case, I will now draw your attention to the nature of the proof which I will lay before you; nature of the defence, and the question of damages. As to the proofs, they will consist of the evidence of persons who knew this young man from his very infancy—of one who is now in the Church, and had been at school with him. We will prove the literary distinction the plaintiff has obtained, and these are never conferred unless they have been earned by the sweat of the student's brow. We will produce proof that he had competed for the position of a sizar, and the Jury should remember that many a great man has fought his way from that position in the battle of life, and reached a station of honour and distinction. Such might have been the fortune of our client. The defendant has endeavoured to destroy that chance; the verdict of the Jury will redeem and compensate him for all he has lost and suffered. Imagine, if you can, the position of such a person—unfriended, alone, without relatives, without friends—the defendant exhibiting towards him at one period a precarious, harsh, mysterious and unaccountable behaviour; and then when he had obtained a position, coming forward and resuming his power over him. In the presence of the house the plaintiff said—

"I am not mad; I would to Heaven, I were!  
 For then, 'tis like, I should forget myself."

Madness would have enabled him to have forgotten his wrong. He behaved like a rational man—he conversed as such—thought and felt as such. He appealed to the doctors, and appealed in vain: he appealed to the Board of the Hospital, and appealed in vain; he appealed to the defendant for mercy in vain; but at length he awakened the friendship of a generous young man, the defendant, fearing the consequence of his acts, and knowing that though the laws might be baffled and evaded, they are still strong and powerful to protect the weak and punish the oppressor, thought it better to remove the plaintiff from the madhouse. If the doctors in Dublin, rank and file, were examined, I am sure the Jury would not declare that my client was insane, unless they were convinced them that he was so; and there is not a man in the jury who is not panting to redress the wrong which my unfortunate client endured. If men could do with impunity such acts as those which the defendant has committed, the law and justice of the country are at an end. What was the defence? What was madness? It was very difficult to define it—what was it, "to be nothing else but mad." Shakespeare, who best knew the workings of the human heart, had thus described it, and his was a language, and his sentiments and thoughts were such, that ever they will be the wonder and delight of men. Mad, indeed, would be the plaintiff if he did not appeal for justice, and endeavour to vindicate himself for the sufferings of his life, the like of which, I believe, have never before appeared in any work of fiction. The defence

that the plaintiff was mad. The defendant should prove it. It was not enough to prove that the plaintiff was eccentric, indolent, or apathetic; no, the averment is that he was a dangerous lunatic. You shall have this dangerous lunatic in the box; you shall hear his narrative from his own lips, and judge of his demeanour. I will produce him, and let my learned friend lay bare his conscience, and test his reason. I ask that he shall be tried according to the principles of that law, which has been most shamelessly and infamously violated. I understand that the other side have been ransacking the kitchen of the University, the bag-man, the coal-man, to furnish evidence against the plaintiff—"Come one, come all." Let us have Foley as large as life; and if Foley can prove all that it is said he can prove, let him come forth. It is a matter of fact, and this should be proved. What distinguishes man from the brute creation? The possession of reason. What makes him the master of the universe? The will of God giving that reason; and to deny him the possession of that which elevates him above the savage, strips him of whatever makes life dignified and desirable. The plaintiff has been falsely imprisoned—he has been illegally inveigled into Swift's Hospital; the defendant has treated him not merely with injustice, but has heaped upon him accumulated wrongs and insults, and has never apologised for these wrongs. He did all he could to blast his prospects, and to destroy his hopes; and the plaintiff is now compelled to appear before a jury of his countrymen to ask for what the oppressed and injured never sought from a jury in vain—justice. Damages! What can you give him that could compensate for the wrongs which he has suffered? Can you recompense him for the solitary agony of the cell, the language of insult, reproach, and contumely, the oppression heaped upon him? Oh! no, you cannot: but you can evince to the world your indignant sense of the misconduct of the defendant by giving that large and ample measure of compensation which the wrongs of the plaintiff require, and which, as humane and discriminating men, you would give and expect to receive, if you yourselves appealed to a jury of your countrymen. (Applause.)

*The Rev. Edward Musherry* examined by *Mr. Napier, Q.C.*—I am a clergyman of the Established Church, and knew the plaintiff since he went to the Luxembourg School, fourteen or fifteen years ago; I was a day scholar, he was a boarder; he came after me and left before me; I knew him all the time he was there; it was altogether about a year; I have known him ever since; I think he went to Kilkenny College after he left the Luxembourg School; I was in the habit of seeing him when he came to Dublin, before he entered College, and we were afterwards in College together; I do not exactly know when he entered, but have known him ever since; he entered as a pensioner, and then went back to Kilkenny; he obtained a sizarship about a year after he entered, and then he first came to live in College; when I was in College he was one of my most intimate friends; he was the most intimate, and I always met him daily; he obtained the scholarship lately, and we were intimate before and after; I was in England when he got the scholarship; we have written to each other; I was aware that he lived with families as private tutor; I had letters from



him when he was acting so ; I had letters from him from Derry. [*Letter dated Dec. 10, 1850, produced.*] I received this letter from him ; the plaintiff was distinguished as a classical student in College ; during the time I was acquainted with him, there was nothing in his manner that attracted my attention ; I remember his having weak eyes, and he was suffering from dyspepsia, which is not unusual to persons of sedentary habits.

*Cross-examined by Mr. George, Q.C.*—I have a preferment in England, and have been three years and a half there, and have not been in Ireland during that time ; I had no personal communication with him during that time, but constantly in writing ; I did not live in College when we were there, but he did ; I should say he was very healthy, with the exception of the attack of dyspepsia, which lasted six weeks or two months ; I am not speaking of his health for the last three years and a half.

*To Mr. Napier.*—He was in the habit of being at my father's house frequently when in College.

*The Rev. Mr. M'Sorley examined by Mr. Armstrong.*—I am a clergyman of the Established Church, and am a Curate of St. Peter's, in this city ; I know the plaintiff since about 1844 ; I knew him in the school of Mr. Flynn, of Harcourt-street, where he was a teacher ; I was then superintending the school ; Mr. Mathew was there a considerable time—about a year ; I have known him ever since intimately, and frequently have spoken to him every year since ; a portion of that time he was out of town, and he then wrote to me ; I am aware he was reading for a scholarship in 1849 ; he went in and did not then succeed, but did succeed afterwards in 1850 ; in 1849 he appeared in the usual state of hard readers ; he looked worn out, but not otherwise unhealthy, as I considered ; he was pale and thin, and was depressed in spirits ; I know he had been receiving pupils before this time in College, and also out of town ; my intercourse continued ever since ; I did not observe anything peculiar in his manner to a young man reading ; he conversed with me on his pursuits and intentions, and when he desponded in 1849 I encouraged him, and he read again and succeeded ; he spoke as a rational, shrewd man—perfectly so all this time, and in 1850.

*Cross-examined by Mr. Walshe.*—I saw him in 1850, and saw him shortly before going down to Mr. Bowen's ; I was not aware he went in twice unsuccessfully ; I don't remember that I saw him in December, 1850, or in January or February, 1851 ; I was not in Dublin in December, 1850, and could not have seen him ; I don't think I saw him from August, 1850, to after February, 1851.

*To the CHIEF BARON.*—I would not swear that I did not see him from August, 1850, to February, 1851.

*To Mr. Walshe.*—I am not a judge of lunatics, but I was before called on to give an opinion.

*To the Jury.*—During my communication with the plaintiff I don't think he spoke of Dr. Harty, but I knew from him there was something peculiar in his position.

*Mr. Pitt Harris examined by Mr. Napier.*—I am a graduate of College, and know the plaintiff since 1844, when he was residing in

College; I was a pupil of his; after that I had daily communication with him, and was frequently in his company at my father's house in Dublin; I had full opportunity of judging of his manner; he always appeared to be a steady, sensible gentleman.

This witness was not cross-examined.

*Mr. John Harris* examined by *Mr. Armstrong*.—I am father of the last witness, and have known the plaintiff since 1844; I frequently saw him since at my house, and elsewhere, and all that time had opportunities of observing his conduct and demeanour; I always considered him steady and correct; he spoke rationally, and I never saw any indication of insanity.

*Cross-examined by Mr. George*.—I saw him before he went to Mr. Bowen's, and immediately after he got the scholarship.

*To Mr. Armstrong*.—When he came out of Swift's he was perfectly sensible in his mind, but emaciated from confinement.

*Mr. James Murphy*, ex-scholar, examined by *Mr. Napier*.—I am a barrister, and know the plaintiff since 1844; we dined at the same table every day in College; I have known him ever since; when in College we spoke daily of College business; I did not think there was a more discreet or prudent man in College at the time.

*Cross-examined by Mr. Martley*.—I took my degree in 1848, and was called to the Bar in that year; I have no recollection of seeing him in 1847 or 1848, but I saw him in 1849 and 1850, after he got the scholarship; when I congratulated him in 1850, after getting the scholarship, I thought he was the last man in College to be insane; he was a man of the most spotless character.

*Mr. James Hall* examined by *Mr. Whiteside*.—I am a scholar of Trinity College, and have known the plaintiff for six or seven years; I have had opportunities of conversing with him all that time, and I considered him very sensible; when leaving College he left the key of his room with me two or three times; he left Dublin a week or ten days after he got the scholarship; he did not then send me the key of his room; I got letters from him from Derry; I first saw him afterwards in Swift's Lunatic Asylum; I could not tell the day of the month I saw him; I went in consequence of a letter brought me by a boy named Holahan. [*Letter produced.*] This is the letter I received; it is from the plaintiff, and is in Latin; I acted on that document; I went to the asylum, and after some difficulty they let me see him; I saw the governor, and a man named White when I first called, and on another occasion saw a person named Cumming; White let me in the first time on his own responsibility, and the second time Cumming asked me had I a note from Dr. Hartly; I said I had not, and he then let me in without it; I then got in and conversed with the plaintiff, who spoke most rationally; he conversed about getting out, and I advised him to write to Dr. Sadleir, and he enclosed me a note to give him. [*Note produced.*] I saw him again in Swift's, and he spoke to me most rationally; I waited on Dr. Sadleir with the note; on each occasion of my going to Swift's there was a discussion as to my admission; I saw Mr. Mathew at large in a week or two afterwards, and have seen him frequently since; I have seen his conduct and deportment, and it was perfectly rational; when in Swift's he expressed a wish to get out, and said he could not.

*Cross-examined by Mr. George.*—I did not see him from June, 1850, until I saw him in Swift's; I heard he was in Dublin for some time, but I did not see him; he has been in my rooms, and I was frequently in his.

*The Rev. Dr. Sadleir, F.T.C.D., examined by Mr. Napier, Q.C.*—I know the plaintiff, and have known him since 1848; he was transferred to me from Professor Jellett; he was then a sizar, and was elected scholar on the 27th of May, 1850; I examined him when he failed and when he succeeded as scholar; I had opportunities of observing his conduct and character, such as most tutors have; he was often out of town, which was a common thing; I had a letter from him from the North after he got the scholarship; I heard he went to Derry, and I received a communication from him; I received a communication from Dr. Harty respecting him; the first was dated January 24, 1851. [*Letter produced.*] In consequence of the application of Dr. Harty, who called and said Mathew was in an unfortunate state of mind, I made an application to the Board; he asked me to apply for something for him, and I required him to put his statement in writing, and said I would lay it before the Board. [*Dr. Harty's letter was here read, which was in effect an application to the Board for an allowance of £31 10s. a year to place the plaintiff in Swift's Hospital, who, he stated, was deranged in Derry, and going about from one lodging to another.*] The Board granted the application, and made an allowance, on the representation of Dr. Harty; I advanced some of this money before I got it myself; Dr. Harty at once applied to me for £15, which rather took me by surprise; I did not advance money on the understanding that Mr. Mathew was to be responsible to me for it; what I gave him was not to be refunded; up to the time Dr. Harty made the application to me, nothing occurred to make me believe that there was anything wrong with Mr. Mathew; I next saw Mr. Mathew after he left the asylum; when he left he came back to College; I had seen Mr. Hall in the interval; the plaintiff has been in College since, and is in the regular enjoyment of the scholarship; I got a letter from Dr. Harty stating he was out, and the order for an allowance was rescinded; the Board granted him two quarters in consequence of what had occurred; during all the time I have known him his conversation was most rational.

*Cross-examined by Mr. Walshe.*—This being a financial matter, I suggested if it might not be proper to give up the rooms; Dr. Harty said that would not be desirable, as he hoped he would not be long there; that was the character of Dr. Harty's conversation throughout; I would not say he spoke kindly; he appeared to treat it as a business transaction, as if he considered he was bound to look after the young man; the application to rescind the order of the Board was in consequence of a communication from the defendant in writing. [*The letter making the communication was here read.*] I was to be paid the £15 I advanced out of the money which was to be paid for the plaintiff by the Board.

*Mr. Andrew Carey examined by Mr. Armstrong.*—I knew the plaintiff in Newport, County Tipperary; he was resident master there; I

knew him from November, 1848, to January, 1849; I knew him then intimately, and walked about with him; I never saw anything like insanity about him; I met him in College since, and conversed with him, and never saw anything to induce me to change my mind as to his mental condition; I did not see him in 1850. [*Not cross-examined.*]

*Mr. Robert French* examined by *Mr. Whiteside*.—I live in the County Wicklow; I know the plaintiff; he was a tutor to me when preparing for College; I frequently conversed with him then and since, and I considered he was always perfectly sensible.

*Cross-examined by Mr. Martley*.—He was about three weeks with me in October, 1848.

*The Rev. George Longfield, F.T.C.D.*, examined by *Mr. Napier*.—I am officially acquainted with the plaintiff; I was dean up to the 20th November, 1851; I should think I have examined him; his conduct has always been perfectly correct and gentlemanlike. [*Not cross-examined.*]

*Mr. Edward G. Hart* examined by *Mr. Armstrong*.—I have known the plaintiff since 1838; we were fellow-pupils in Kilkenny College; I have known him since; I renewed my acquaintance when he got a sizarship, and continued it up to 1849; I had repeated conversations with him, and we were frequently at each other's rooms; I remember his living at Drumcondra; in all the conversations I had with him he was most rational and sensible; he is a divinity student, and so am I.

*James Sutton* examined by *Mr. Whiteside*.—I am a porter of College since 1826; I know the plaintiff for five or six years, and have seen him all through the house; I never took any notice of anything extraordinary about him, and I don't think there could be any such without my knowing it.

*Cross-examined by Mr. Martley*.—I have seen him in his rooms; I did not know where he was often.

*To Mr. Whiteside*.—I have seen him reading in his rooms late and early.

*Charles Douglas* examined by *Mr. Napier*.—I am chapel porter of Trinity College; I know the plaintiff for about six years, and had the best opportunity of knowing about him; I keep an account of his attendances, and if he is not there I fine him; from the day I first knew him he is a perfect Christian, well attending young man (laughter); no man could say he was mad, unless the man was mad himself (great laughter).

*Mr. James Cusack* examined by *Mr. Armstrong*.—I am a land surveyor and architect, and live in Derry; I know the plaintiff, and was introduced to him in Derry, where I was very well acquainted with him until he left; I knew him in January, 1851, there, and had conversations with him on different subjects, and considered him perfectly rational and sensible; I have spent evenings with him, and his conversation was particularly interesting and very rational; he was well informed on all subjects, and was well able to express himself; I know a Mr. Hamilton, a phrenologist, in Derry, and met the plaintiff there; I took lectures from him.

*Mr. Whiteside*.—Take care what you say. (Laughter.)



*To the COURT.*—Mr. Mathew was transacting some business for Mr. Hamilton.

*To Mr. Armstrong.*—Mr. Hamilton has left Derry; I believe he has gone to Scotland; I inquired for him lately.

*Cross-examined by Mr. George.*—I first knew the plaintiff when he was lodging at Mrs. M'Alister's, in January, 1851; I heard he was a tutor at a Mr. Bowen's, near Derry; it was after that I knew him; I know a Mr. M'Entire, but did not know him until after Mr. Mathew left town; he was three or four weeks there before he left when I knew him; I did not know he was in other lodgings in Derry, but heard so since; Mr. Hamilton lodged at a Mr. Steel's; I saw Mr. Matthew writing on one or two occasions for Mr. Hamilton; he was addressing circulars in connexion with the lectures; I was at some of the lectures; Mr. Mathew took no part but as one of the audience; I was never at a theatre or other public amusement with the plaintiff; I may have met him at a hotel.

*Mr. John M'Entire examined by Mr. Whiteside.*—I live in Derry, and knew the plaintiff for a short time; I first knew him when he came from the house of Mr. Bowen, where he was tutor; he came to me to lodge; he said he was a stranger and wanted lodgings; he told me who he was, and I introduced him to some gentlemen who were lodging with me; he remained with me about a month; during that time I believe he had applied for a tuition; I am an attorney; he boarded with the gentlemen I introduced him to; I never observed anything extraordinary in his manner; he appeared to be a perfect gentleman; when he left me he went I believe to a Mrs. M'English.

*Cross-examined by Mr. Martley.*—The gentlemen I introduced him to were a Mr. Sproule and a Mr. M'Clintock; I can't tell the exact time he came to me; I had some conversations with him, but did not observe him very closely; if my wife knows more of this matter than I do, I don't know of it. [*Letter produced.*] I wrote that reply to a letter which she received; I am not frequently from home; my wife may have known more of the plaintiff than I did; if she knows more than I do, she can answer for herself; I won't swear she had better opportunities of observing his conduct; I had about ten or twelve communications with the plaintiff, but I can't tell at what intervals; I would not swear to the truth of what my wife said (laughter); I know a place called Wapping, in Derry; there is a theatre there; the admission to it is 1s. or 1s. 6d.; never heard him sing there; I know nothing of the way in which he conducted himself; I might have heard him muttering to himself; I think I did; I was not acquainted with his habits when in my house; I heard him muttering to himself when alone in his room at breakfast; I referred to a Mr. Mooney as being able to give information about the plaintiff.

*Mrs. Alice M'English examined by Mr. Whiteside.*—I live in Derry, and recollect the plaintiff coming to lodge with me in January last; he came to me from a Mr. M'Entire; when he left me he went to Dublin; I often conversed with him when lodging with me; he always appeared to be a sensible man.

*Cross-examined by Mr. George.*—I think he left in July last; I am not sure; I don't know that he was in any other lodging after he left

me ; there was a Mr. Brice lodged with me ; I saw him three or four times a day ; he generally was home at eleven at night and sometimes twelve ; he sat up late at home ; when he was going out he generally said where he was going ; he used to go to Mr. Walsh, the organist's, on the wall ; when he remained out to twelve he was at Walsh's ; he knew young men named Cusack and M'Cowan.

*To the COURT.*—When he came home late he always read ; he did not rise early ; about nine o'clock.

At five o'clock the Court was adjourned.

## SECOND DAY.

*Friday, 12th December.*

The examination of witnesses upon behalf of the plaintiff was resumed at the sitting of the Court at eleven o'clock.

*Mr. Richard Townsend* examined by *Mr. Whiteside.*—I know the plaintiff ; he was my tutor at Delgany, in the county of Wicklow ; I walked, talked, and dined with him, and always considered him rational ; he understood "Homer" and "Horace" like a rational man.

*To Mr. George.*—I knew him in 1847, and not since until yesterday.

*To Mr. Whiteside.*—I did not find any difference in him.

*Mr. John Nicholson* examined by *Mr. Napier.*—I am a scholar of Trinity College, and know the plaintiff ; I read with him for scholarship, and got it the year before him ; I have known him since, and have had opportunities of speaking to him ; I often met him since, and always found him perfectly rational.

*Cross-examined by Mr. Walsh.*—It was in 1849 I was reading with him ; I met him then for the first time, and walked with him, and spoke to him two or three times.

*To the COURT.*—I walked alone with him to Rathmines ; I saw him every day when we were reading together.

*Miss C. Bracken* examined by *Mr. Armstrong.*—I have known the plaintiff six or seven years, and knew him first in Dublin ; there was a brother of mine, who is now at Sierra Leone, reading with him ; I had frequent opportunities of observing him ; he was on intimate terms with us, and came in and out without ceremony ; I have known him from time to time ever since ; his conversation was altogether, in my opinion, and that of my family, that of a rational man ; I very often conversed with him, and he spent evenings with us. [*Not cross-examined.*]

*Mr. Horatio Nicholson* examined.—I am a scholar of the University, and know the plaintiff since 1849, up to this morning ; I know him as an acquaintance, and always considered him perfectly keen, and particularly so in the management of his own affairs ; he was sound in his mind. [*Not cross-examined.*]

*Mr. Thomas D. Hargrave* examined by *Mr. Whiteside.*—I have been acquainted with the plaintiff since 1837, when we were at school in



Kilkenny; I have been intimate with him for a long time; we were left together when illness broke out amongst the pupils; his conversation was that of a rational person; he was studious, and was distinguished for his ability; he was always head of his class; I recollect he was fond of music, and used to devote the time other boys devoted to play to his books; I am a surgeon and M.D.; I have observed the plaintiff in College occasionally; after I left school I did not renew my acquaintance until 1847; it has continued down to this morning, and I always considered him a rational being.

*Cross-examined by Mr. George.*—I was here all day yesterday; I live in Dublin, and have only met the plaintiff occasionally, but when I did I always found him most rational.

*To the COURT.*—I met the plaintiff in April last, and he detailed to me what occurred; he then told me he was in Swift's Hospital, and I had a great deal of conversation then with him and afterwards; my attention having been called to that fact, I consider that he was perfectly rational in every respect.

*Dr. John Barker examined by Mr. Napier.*—I have known the plaintiff for three or four years; I met him first I think in 1848, and have had occasional opportunities of meeting him since—such opportunities as to enable me to judge of his conduct and demeanour; I am a member of the medical profession, and was a resident in the Richmond Hospital; there are lunatic cells attached to the hospital, which I visited.

*To the COURT.*—There were something like thirty such patients, and sometimes more; I was generally sent for, if it was necessary for a surgeon to see the lunatic; that was a part of my duty.

*To Mr. Napier.*—During the opportunities I have had of seeing the plaintiff, there was nothing whatever in his demeanour to indicate that he was of unsound mind; from his address, and manner, and conversation, he was perfectly sane, as far as I could judge; he was accomplished, and fond of music.

*To Mr. Martley.*—I was sent to see the lunatics who required the assistance of a surgeon; the asylum was attached to the House of Industry; I have heard of persons being music mad; I heard that George the Third was music mad.

*Mr. Whiteside.*—Were you at the Ancient Concerts last night? (Laughter.)

*To the COURT.*—There were physicians who attended the lunatics as lunatics, but I attended them only as a surgeon; I would not say I attended them specially as lunatics; I had a conversation with the plaintiff after he had been in Swift's; I saw him the week following, I think, and then, and at all other times, I considered him to be a person of sound mind.

*Thomas Bradner examined by Mr. Armstrong.*—I know the plaintiff; I first met him at Mr. Stokes's (the defendants); I was then assisting about the house; this was in January last; I first saw Mr. Mathew at the latter end of January last, about the 30th; he had then just arrived there, and only stopped three or four days; he slept there during that time; dined and breakfasted there; I did not see him at dinner, as I

did not attend the parlour ; I saw him in and out during that time ; when he was there, he came down one day and asked me my name, and was I a Protestant or Catholic ! I said I was a Protestant ; that occurred about church hour ; he left Stokes's then, but I did not hear where he went to ; he was away five or six weeks ; I did not see him leave the house ; after he returned I went to attend him in College ; I heard he was in the country ; a couple of days previous to his coming back I went to his chambers to clean them ; when he came I attended him, and cleaned up his room ; I had very close intercourse with him during a month, and from the first time I saw him at Mr. Stokes's until I last saw him I considered his conversation that of a sensible, rational man ; I never saw any madness about him.

*Cross-examined by Mr. George.*—It was Mr. Stokes directed me to clean up the place in College ; I did it under Mr. Stokes's directions ; he came there to put me to work, and told me to see they were properly prepared ; I was a fortnight at Mr. Stokes's at the end of January, 1851 ; my duty was to go of messages, clean shoes, &c. ; I was not personally attending on any gentleman in the house ; Mr. Mathew was not there a fortnight, but for three or four days, and I used to see him going in and out.

*To the COURT.*—I was only there for a fortnight.

*To Mr. George.*—It was not the habit of the gentlemen to come down to the kitchen ; there were but three in the house, and two came down ; there was a Mr. Hamilton and a Mr. Joynt ; Mr. Mathew came down but once ; I never met the plaintiff in the garden, or observed anything peculiar in the garden ; I once heard he wore slippers going to church, and I afterwards understood that his shoes hurt his feet ; he joked with me in the kitchen, and asked the girl what was for dinner (laughter) ; I don't recollect if I was ever asked did I remark anything remarkable ; I had very little intercourse with him in the house, but I was asked was he fidgetty when he went back to College.

*To Mr. Armstrong.*—Mr. Stokes asked me that when I was attending him in College ; I did not then know he had been at Swift's ; I heard he had been in the country ; Mr. Stokes asked me that in his own house ; I often went of messages from Mr. Mathew to Stokes's ; Stokes asked me that several times ; he asked me did I remark anything like lunacy or insanity about him ; I said I did not, and that was perfectly true ; he was as steady a gentleman in his manner and habits as any one I ever met with ; Mr. Stokes had the key of Mr. Mathew's rooms, and opened them.

*To the Jury.*—Stokes did not tell me where Mr. Mathew was when he was at Swift's.

*Mr. William Hazlett, S.T.C.D., examined by Mr. Napier.*—I know the plaintiff since 1849 ; I got my scholarship this year ; I have had ample opportunities of judging of his conduct and manner ; we dined at the same table as sizars and scholars, and I never observed anything in his demeanour to make me think him less sane than any other of my College friends ; I had other opportunities of judging of him ; I was at his rooms, and he at mine, and, as far as I could judge, his conversation was most rational ; I know him still.





*Cross-examined by Mr. Walsh.*—I only speak of the time he was in College.

*James Jeffreys examined by Mr. Armstrong.*—I am connected with the Botanic Gardens at Glasnevin; I know the plaintiff's appearance well; I remember the end of January or beginning of February seeing him with Dr. Joynt at the gardens; I am a pupil or student under Mr. Moore, the Curator; I was working in the houses the day I saw him, and showing visitors through; Mr. Mathew and Dr. Joynt were together, and got into conversation with me; I brought them through the houses; I could not tell the day of the week it was, or of the month; it was a visiting day, and Tuesdays and Fridays are the visiting days; my conversation with him was such as to enable me to speak of the state of his mind, and he spoke as rational as Dr. Joynt (laughter), or any other gentleman who was in the garden that day, and there were a great many.

*Mr. Beresford Burrows examined by Mr. Whiteside.*—I had a friend in Swift's Hospital, in February, 1851, and I went to the hospital several times; on those occasions I saw Mr. Mathew; he came up and spoke to me about the institution; I took him to be an official of the asylum; he conversed with me as rationally as myself. [*Not cross-examined.*]

*William Carter examined by Mr. Napier.*—I have an office in Swift's Hospital; I was there in February last; I know Mr. Mathew, the plaintiff, and recollect going to James's church with him when he was an inmate of the asylum; nothing could be better than his conduct and demeanour.

*Cross-examined by Mr. Walsh.*—I have gone to church before with convalescent lunatics; they are not sent to church when they are troublesome.

*To Mr. Napier.*—I had opportunities of seeing him before I went with him to church, and I never saw anything about him but what was correct.

*To the Jury.*—He did not speak to me about why he was confined.

*To Mr. Walsh.*—It is usual for lunatics to converse sometimes sensibly and sometimes not.

*To the Jury.*—Mr. Mathew was always sensible.

*Henry William Mathew examined by Mr. Whiteside, Q.C.*—I am the plaintiff; I know the defendants; I have known Dr. Harty for about seventeen years, from the year 1834; during that time I have had more or less intercourse with him; I have seen him occasionally at various times; I was first at school in England, in the neighbourhood of London, in or near London; I can't positively say who put me to school, but if I could make a surmise I would say—

*Mr. Martley.*—You can't make any surmise.

*Witness.*—I was in the habit of visiting a family near where I lived; they consisted, as I heard from Dr. Harty, of my uncle, my aunt, and my cousins; Dr. Harty told me that that family had gone to France, and he had not known anything about them, nor had he heard about them; I was about seven years old when I left London; I was then placed

at Elton's school, near Arklow ; Dr. Harty put me there ; I have every reason to believe he put me there ; I remained a year there ; I was put into the Luxembourg School, of the committee of which Dr. Harty on introducing me to the Luxembourg, was a member ; Dr. Harty praised my proficiency in arithmetic, and showed me about to the boys as a good arithmetician ; I stopped there one year and a quarter up to the end of the year 1835 ; I spent a part of my Christmas vacation in Dr. Harty's country house (St. Helena), near Finglass ; I knew a Mrs. Sherwin ; she was matron of the Blue Coat Hospital ; before that I spent two or three months and part of a Christmas vacation in her house ; Dr. Harty introduced me to her ; I was about seven or eight years old when I first became acquainted with her ; that lady is dead ; I was also sent to Kilkenny College by Dr. Harty, the head of which was Dr. Bailey ; I recollect that Dr. Harty said that "now I must begin to look about for myself, and go through the world ;" I was little more than nine years old then (a laugh) ; I remained six years in the school ; Dr. Bailey induced Dr. Harty to allow me to read for sizarship ; I read the classics there, and I understood what I read ; I entered the University in October, 1841, as a pensioner ; I was fifteen years of age ; I was present at the trial yesterday ; I have heard some of my old school-fellows examined, and I had the intimacy with them which they described ; at first I was of a studious turn of mind ; I got idle afterwards ; I could play the flute.

*Mr. Whiteside.*—Many a distinguished man has played the flute.

*Witness.*—I could also sing ; after the entrance examination I returned to Kilkenny College, and remained there till January, 1842 ; I remained for some time at Mrs. Sherwin's house, and was removed by Dr. Harty to the house of Mr. Stokes ; I was not then sixteen years of age ; Stokes was then, as he is now, a clerk in the National Board of Education ; although I entered as a pensioner, I was to read for sizarship, at the suggestion of Dr. Harty ; I read for sizarship ; I lost it the first time ; Dr. Harty upbraided me with not getting it ; there were persons living in the house of Mr. Stokes ; there was a lady there who was a lunatic, and another who was alleged to be so ; a gentleman who had been a lodger in the house asked me to spend some time in Ardee with him and his family, and I went ; he was not a patient, he was a medical student ; I read for honours in the University ; I succeeded ; I read for honours again, and succeeded ; the next year after that I got second honours ; upon three occasions I got honours ; one in October, 1844, another in Trinity, 1845, and another in Michaelmas, 1845 ; I saw very little of Dr. Harty at this time ; perhaps once in a couple of months ; I supported myself partly by pupils and partly by my sizarship ; at times subsequently I was without pupils ; I did not then suffer from want of means ; from about November, 1845, till the spring of 1846, I had sore eyes and could not read ; I lived in my rooms in College ; Dr. Harty occasionally called to see me ; he directed me to use warm water, but he did not give me anything else ; his manner was for the most part harsh, arbitrary, imperious, and tyrannical ; in 1847 I was ill ; I suffered from dyspepsia ; my constitution was injured by my so-



litary life and my sedentary habits; I was not taking much exercise, therefore I got ill; Dr. Harty told me I was born in Monmouthshire; I was living in College while I was ill of dyspepsia; Mr. Stokes called to me, and seeing I was in bad health asked me to spend an evening at his house, and after that to spend some days with him; he was living in Drumcondra; I remained at Stokes's house from June to the 24th of December, Christmas-eve; I received a voucher for the payment of £7 for the time I was with him [*a letter handed to witness*]; I was sufficiently recovered then to resume working for my bread; I passed an examination before the 24th December, the October examination, 1847; I read for that while at Stokes's, though I was not very strong; I went to live with a family in the County Wicklow, the family of a Mr. Townsend, near Delgany; I instructed a young gentleman there; he was examined here; I spoke to him yesterday; I saw him to-day; I remained at Mr. Townsend's for about five weeks; I then returned to College, and remained till the 2nd of December; I was obliged to run up a bill with Foley; I was without pupils or means; I scarcely ever saw Dr. Harty then; he gave me very little, something about £1; I incurred a debt to Foley of £8 odd, that is from the beginning of 1848, to the summer of 1850; the £8 was the balance of the money which I had received from him; down to the year 1850, from the beginning of 1848, I scarcely ever saw Dr. Harty; he used to upbraid me with my poverty, saying, do you expect to get into the Marshalsea? you are getting into debt, you are getting into a nice position; I was living as moderately as I could; I had no pupils; I know Mr. French of Clonmel; I taught the young gentleman who was examined; I was employed at Mr. Garvan's in the County Tipperary; it was a school at Newport, "St. John's;" I remained there from October, 1848, to the January of 1849; I remained with them during the vacation; I came back to College, and engaged myself in reading for scholarship; I had some pupils in Dublin after returning from Tipperary; I went in September, 1849, to a family in the King's County, the family of Dr. Mullen, Bellair, near Ballyhumbar; I read for scholarship in 1849; I lost it; after that I was literally dispirited; I was in the family of Dr. Mullen from September to January; when I returned to Dublin I resumed my studies; I did not see Dr. Harty at all then; I got no pecuniary aid from him; Dr. Harty said that "he had been originally entrusted with a sum of money by a person who should be nameless, for my education and maintenance; he said that it had long before been exhausted; he told me that several times; he told me that first about six years ago; I saw Stokes while I was reading for scholarship; he is not as good a classical scholar as I am; he is not a classical scholar at all; before I was elected scholar I was appointed by Mr. Bowen to teach his family; on the day I was elected Stokes called upon me and advised me to see Dr. Harty; I told Dr. Harty about this proposed tuition in the family of the Rev. Mr. Bowen; he told me it would be a good thing for me to pass the summer months there, if I were satisfied as to the character of Mr. Bowen; I was then in rather bad health; I used to sit up late at night, and was what College men call "a little worn;" Dr. Harty lent me

£5, and I prepared to leave town, somewhat reluctantly ; I know Mr. Hall ; I had been in the habit of depositing with him the key of my room when I went to the country ; upon this occasion I had not time to deposit the key with him ; defendant Stokes called upon me ; I asked him to give the key to Mr. Hall ; he said he would take care of it himself ; I had no time to give it to Mr. Hall, and I complied ; Mr. Stokes got my letters.

*Mr. Martley.*—How do you know ?

*Witness.*—From his showing them to me. (A laugh.) There were amongst them communications from Foley.

*Mr. Whiteside.*—Yes, communications from Mr. Foley—the implacable Foley.

*Witness.*—At Mr. Bowen's I was to instruct three persons from half-past seven in the morning to a quarter to six in the evening ; then we dined, and after that we sometimes had music ; I brought my flute at the suggestion of Mr. Bowen.

*Mr. Whiteside.*—And he heard it without terror. (A laugh.)

*Witness.*—Yes, Mr. Bowen and his family treated me very kindly, and I feel grateful for it ; I did not like the drudgery ; I did not feel my strength equal to attend to my duties ; while I was there I wrote a letter to Mr. Bowen ; I conversed with him after that, and continued to give instructions ; I wrote a second letter to Mr. Bowen ; after that I agreed to come to town for the benefit of my health ; I think the declaration of my scholarship was on the 17th of May, and I went down to Mr. Bowen's upon the 5th of June ; I left Mr. Bowen's house on Friday, the 5th of July ; I had been there just a month ; I was in ill health at the time, in extreme nervous depression ; I arrived in Dublin upon the 6th of July ; I went to the house of Stokes ; he had removed my bedding from College ; I saw Dr. Harty very soon afterwards ; he examined me medically, and he said to Stokes, "Don't you see he has congestion of the liver ;" he disapproved of my leaving Mr. Bowen's ; he called it "intense folly ;" I remained in town till the 5th of August, and then returned to Mr. Bowen's ; I was improved in health, but not quite restored ; I kept my flute, which was brought a second time to Mr. Bowen's ; I remained there for four months ; was in daily intercourse with the family ; I left Mr. Bowen's upon Friday, the 6th of October ; on leaving him I got a document (which was handed to the witness) ; I went to Derry from his house ; Derry is about five or six miles off ; I went to M'Gowran's hotel ; Mr. Stokes had written to me about a tuition in Derry. [*The letter is dated 3rd December, 1850.*] Dr. Harty also knew that I was about leaving Mr. Bowen's ; I stopped a week at M'Gowran's hotel in Foyle-street ; I then removed to M'Intyre's in London-street ; I remained there three weeks ; I went from thence to the house of Mrs. M'Canlish ; I remained there three weeks and five days ; Mr. Bowen settled with me fully ; I looked for a tuition even before I left Mr. Bowen's ; there was a tuition at Strabane for which I was looking ; I was willing to take a tuition in England, Ireland, or Scotland ; I corresponded with Dr. Sadleir ; upon the 10th of December I wrote to him ; I also wrote to Mr. Hall ; I made several acquaintances in Derry ; I became acquainted with Mr.

Cusack ; I saw him constantly for the three or four weeks before I left Derry ; he used to spend evenings with me ; I knew a Mr. Walsh ; he lived on the "Wall" of Derry ; he is musical, and very much respected ; his son was also musical ; I enjoyed myself with musical recreations ; I went to the play there ; I think the prices were 1s. and 1s. 6d. ; I also became acquainted with Mr. Archibald Hamilton ; I associated very much with him, and I acquired a very great taste for the science of phrenology ; I heard many of his lectures ; he measured my head ; Dr. Harty got the paper containing the character of my head ; he kept it ; Mr. Hamilton asked me to assist him in writing a little for him, and as I had an interest in the science, he suggested to me to stop there and acquire a knowledge of the study by writing the characters ; I was to teach him Latin in return ; there was an arrangement about money ; I was to be paid ; Mr. Hamilton was a Scotchman.

*Mr. Whiteside.*—I won't go any further ; if he was a Scotchman that is quite sufficient.

*Witness.*—Mr. Burrowes was the star of the theatre in Derry ; I have heard of the song, "I'm afloat ;" I have sung that song ; every one who hears me sing says I can sing : young Walsh of the choir had engaged to sing that song for Mr. Burrowes ; it was announced in the bill, but he declined afterwards to do it for fear he would lose his situation in the choir ; he introduced me to Burrowes, and he asked me to sing it ; I at first said I could not do it ; Walsh said that I could do it as he had heard me sing, and he implored of me to sing it, and to oblige both parties, lest they might be disappointed, I agreed to sing it ; I did sing it ; the song was not encored. (A laugh.)

*Mr. Whiteside.*—If you never commit a greater indiscretion you are fit to be a Lord Chancellor.

Witness then detailed the visit of Stokes to Derry ; his calling upon him and telling him that he should return to Dublin ; he showed him a note in the handwriting of Dr. Harty ; it was to the effect that if he did not return to Dublin and report his presence to the Board of the College on the following Saturday he would lose his rooms and probably the benefits of his scholarship ; I doubted, said witness, the report at first, as it was rather strange, but as I saw no motive that Stokes could have, I believed it, and I agreed to return to Dublin ; before I left Derry I paid every farthing I owed ; I kept the account that has been handed to me ; I left on the 29th of January of the present year ; I conversed with Stokes on the way sensibly and rationally ; I intended to go to my rooms in College, but I went to Stokes's at his request ; I breakfasted with him on Thursday morning ; I said I would go to my rooms at once, and he desired me wait till after breakfast, and to see Dr. Harty ; Dr. Harty called ; he began to accuse me and reproach me with remaining in Derry so long ; he asked me about my connexion with Hamilton ; he asked me to show the character he had given me ; he also asked me what money I had ; I gave him the "character ;" he asked me how I had spent the money I got from Mr. Bowen, and to give him the money he had lent me, and he took it ; the sum was £4 ; that was all I had remaining after I had paid my travelling expenses ; Dr. Harty

said in the presence of Stokes, in 1847, "he is now twenty-one years of age, and, if there were any property coming to him, he would come in for it;" he also spoke of my debt to Foley; he censured me for contracting it, and said he would be on the look-out for me; I lived as economically as I could; in fact, part of the time too much so; during the time I was at Stokes's, Dr. Joynt and Mr. Michael Hamilton were there; Dr. Joynt has gone to Bombay; I spent the Monday evening with them, and on the Friday I was also there; on that day Dr. Mollan and Dr. Harty came to me; it was about half-past eleven o'clock; I was at the piano amusing myself; I play the piano a little; I could accompany myself; I could accompany myself in singing "I'm afloat." (A laugh.)

*Mr. Whiteside.*—Your music was interrupted by the apparition—the appearance of two doctors?

*Witness.*—Yes; Dr. Harty came in first, and introduced Dr. Mollan as having come on the part of Dr. Sadleir to see me; Dr. Sadleir was my tutor, and I had a suitable feeling of respect towards him; he was always extremely kind; I knew nothing of Dr. Mollan from any personal intercourse; Harty left Mollan and me together; Dr. Mollan remained nearly half an hour; he and I sat down together; we sat upon the sofa; he asked me several questions; he asked me why I had remained so long in Derry; he also asked me about my conduct there; I answered him; I told him of the letter I had received from Stokes—that I was looking out for a tuition—that I had been ill, and that these circumstances detained me in Derry; he then asked me various other questions regarding Mr. Hamilton, the phrenologist; what was my intercourse with him; why I had left Mr. Bowen's, and what misunderstanding had arisen that made me leave Mr. Bowen's, and I described to him as I best could the circumstances under which it occurred; he also asked me with regard to my health; Dr. Harty came into the room; he said that he had prescribed for me, and that what he had ordered had evidently either effected a cure, or improved my health considerably; I said I did not attribute the improvement in my health so much to the prescription of Dr. Harty as to my having lived in a regular family, and having been amused.

*Mr. Whiteside.*—You said this in the presence of two doctors? (A laugh.)

*Witness.*—Yes. Dr. Mollan said little; Dr. Harty spoke to me; he began to complain of the way I had been going on in College; he said I had been so long about graduating—that I had been such a length of time in College and never doing any good; he also said I should have obtained a scholarship sooner; in fact he said the whole history of my life was of a similar character, and testified as to the truth of his opinion regarding me; I think Dr. Harty went down stairs then for a short time; Dr. Mollan went down to him, and I did not see them both afterwards; Dr. Mollan did not give me any opinion relative to myself; he did not say anything about me; Dr. Joynt and I went afterwards on that day to the Botanical Gardens; we returned to the house of Stokes; a scholar of College, the Rev. John Murray, spent the evening there; we were conversing that evening, among other things, upon phrenology

and physiology in general, upon both of which Stokes was perfectly innocent ; Dr. Harty called, and said he had reported my presence to the Board of Trinity College, Dublin, and asked me what I intended doing ; I told him I intended to begin my attendance upon my divinity lectures—after that to go in for my examination, and then write for the Vice-Chancellor's Prize ; Dr. Harty said little or nothing about this ; he seemed to shake his head.

*Mr. Whiteside.*—Oh, there was little in that. (A laugh.)

*Witness.*—I went on Sunday to the Bethesda ; I returned to Stokes's house and dined there on the next day ; shortly after breakfast a note came from Dr. Harty to Stokes ; Stokes showed it to me ; the contents were, that my inveterate enemy, Foley, had discovered that I was in town, and was on the look out for me ; it was either that "inexorable foe," or "inveterate enemy" (a laugh) ; he (Dr. Harty) advised me to go to the King's Bridge to a friend's place of his, and spend a few days there till the storm passed over ; he also desired me to pack up my goods, and he would call at eight o'clock in the evening in a covered car, and convey me to the place ; Stokes did not dissent from that proposition ; Dr. Harty did call for me in the covered car ; he was punctual (a laugh) ; we drove till we came to a large public building, of the nature of which I was ignorant ; when we arrived, Dr. Harty and I went up the steps ; I said, "this seems to be a fine institution"—it is a large public building—"what institution is it ?" he turned his back to me and said nothing ; the door was open ; Dr. Harty asked for Mr. Cumming, the manager ; he came and showed Dr. Harty into the reading-room ; in the hall Dr. Harty spoke to Mr. Cumming ; took him familiarly by the button of his coat and brought him aside ; Dr. Harty said to Cumming he hoped there was security from bailiffs in that place ; Cumming said little ; he assented quietly to the observation ; we had some conversation ; they remained for a few minutes ; I brought some music with me thinking to accommodate myself to whatever family I was going ; I soon found myself alone with the keepers ; I asked Richard Dunne what house it was ? he replied that it was an hospital ; I asked him for what kind of patients ; he replied that it was principally for weak-minded people ; I asked him if it was exclusively for them ; he replied that it was ; I asked if I could see Mr. Cumming ; oh no, certainly not, said he ; this was near nine o'clock ; Dunne said that it was impossible for me to see him till morning ; I said that it was very strange ; he asked me if I would have any tea ; I said not ; Dunne said that I should go to bed immediately ; I objected to that ; I thought it was very extraordinary ; he said I should go ; he brought me to one of the cells, a common cell ; he left me there with the keeper of the wards to be locked up till seven o'clock next morning ; it was a common flagged cell ; I had a common iron bed ; merely the bed and bed-clothes ; my own clothes were put outside of the cell ; I had not been guilty of any act of violence before I was put into that place ; certainly not ; the first medical person I saw next morning was Dr. Cusack ; Richard Dunne brought him to me ; he asked me how long I had been unwell ; I said I was not unwell at all, and in fact I was perfectly convinced that

I was quite well ; one of the keepers told me it was the celebrated Doctor Cusack to whom I was speaking ; the Doctor shook his head and passed on. (A laugh.)

*Mr. Whiteside.*—Oh ! he shook his head.

*Witness.*—I remained in the institution against my will ; Dr. Harty did not call till five days had elapsed ; I spent the five days as best I could ; they put me in a room to sleep with two persons who were deranged ; the first words of Dr. Harty were, “ Well, do you know where you are now ? ” I said I did ; he then said that I was put there for two reasons ; one, to obtain security from bailiffs, and the other, to effect a cure ; I said that I saw no need of a cure ; he said it was very evident there was need, and that every person must have observed it ; I asked him did he really imagine that there was anything wrong with my mind—that I was deranged ; he said that every one must have perceived that I was ; every one must have seen from my conduct that I was either a fool or a madman ; “ Now no one would have taken you for a fool,” said he, “ and therefore you must be mad.”

*Mr. Whiteside.*—Are you a logician ?

*Witness.*—I do not pretend to any skill in logic.

*Mr. Whiteside.*—But you must admire that logical conclusion. (A laugh.)

*Witness continued.*—I had an interview with Dr. Croker ; he appeared to be a very affable man ; I asked him if I was to remain there long ; he said that would depend upon Dr. Harty ; I spoke to Dr. Harty, and he referred me to Dr. Croker (a laugh) ; the habit of Dr. Croker was to call about four times a week ; at first I addressed him as often as I could, till I saw there was no use in doing so any more ; I saw Mr. White, the Inspector of Lunatics, Dunne brought me to him ; I remonstrated with him about my detention ; he said he would assist me ; that he was convinced of my sanity, and would call in a few days to do so, but he never did so ; he promised to call and assist me in effecting my liberation, but he did not do so ; I was particularly under the care of Dunne ; he was very friendly and kind ; in two or three days I saw Dr. Harty ; upon one occasion he was in the office with the clerk ; he was settling some matters with him, and he asked me “ when will you be able to pay what Dr. Sadleir has been so kind as to advance for keeping you here ? ” “ did Dr. Sadleir pay that ? ” said I ; “ oh, yes,” said he ; the sum was £10 ; it was, he said, for keeping me in the asylum ; I never borrowed any money from Dr. Sadleir ; Dr. Harty used to call to see me often ; he used to endeavour to convince me of my own insanity ; he tried to make me confess it, and I declined ; his words were “ your safety will consist in acknowledging that you are insane, and your sanity will appear by admitting your own insanity. (Great laughter.)

*Mr. Whiteside.*—That is the logic of Swift’s Hospital. He failed to convince you that you were insane ?

*Witness.*—He did ; he told me, after putting me off from time to time about getting out, that if I did not take care I would be there all my life ; I know Carter ; I was once with him at St. James’s church ; some books were sent to me while I was there.



*Mr. Whiteside.*—What were they? *Witness.*—“Stack’s Optics,” “Lloyd’s Mechanical Philosophy,” “Brinkley’s Astronomy,” “Cicero de Officiis,” and as well as I remember, “Stock’s Lucian.”

*Mr. Whiteside.*—For what purpose were these books given to you?

*Witness.*—That I might read for my next examination.—  
(Laughter.)

*Mr. Whiteside.*—Did you find that place suitable for the prosecution of your collegiate studies?

*Witness.*—No; certainly not. He described his having sent the boy, Holahan, to the Rev. John Gregg with a letter, to which he did not get any answer, and a conversation which he had with Dr. Hartly; he told Dr. Hartly that he had written to Mr. Gregg principally upon religious subjects; Dr. Hartly said that it would have been better to have concealed the place in which he was, and he replied, that he did not think it was making it public to tell the Rev. Mr. Gregg. Dr. Hartly also stated to him, that he was going to give him a final trial, upon some fixed day, next week; he would call in the evening, and take him away in a covered car, and next morning he should return to his rooms in College; I had, said witness, been six weeks and four days in the asylum then; at that time Dr. Hartly said—“I am a very old man now, and I can’t bear any agitation or excitement, and so I hope you won’t trouble me after you get out;” also he said—“You’ll have to take care that you give no cause to be brought back here again, for you will be watched closely in every movement you make;” that was the substance of the conversation—but he also made some little arrangement about giving me tea and candles, &c.; in three days afterwards I saw Mr. Hall again, and in three more I was finally liberated; I told Mr. Hall I was going to be liberated; as well as I remember, the conversation I have last mentioned between myself and Dr. Hartly took place on either a Friday or a Saturday; on Thursday, the 27th of March, Stokes called at the asylum, and I was liberated; I had been seven weeks and three days in the asylum against my will, reckoning from the time I found out what place it was; the institution was managed by a Board; two members of it (the Rev. Mr. Abbott and Mr. Law) called to the ward in which I was, for the purpose of seeing a patient who had asked for a clergyman, and I obtained Mr. Cumming’s permission to have a private interview with them; I applied to them on the subject of my liberation; it was exactly four weeks after I had entered the hospital; I conversed with them and they with me; I got no order at that time for my liberation; on the night of my discharge I was brought to Stokes’s house; Mr. M. Hamilton was there and Mr. Stokes, but none of the family of the latter, as well as I remember. On the evening before I was liberated Dr. Hartly said to me in the asylum, “As soon as you get out call upon Dr. Sadleir, and don’t forget to thank him for his kindness in keeping you here;” he also said, “be modest and quiet, and don’t say much to him;” the next morning I got to the College; Stokes restored all my keys to me except one; shortly afterwards I discovered the truth as to Dr. Sadleir; a few days after that Dr. Hartly called on me in College, and found the young lad Holahan in the room with me; he (Dr. Hartly) sat down and spoke a few words to me; I don’t exactly re-

member what, and then beckoned me out in the lobby, and asked me who was the young lad in my room; and when I told him he said, "Why have you any communication with any one connected with the asylum?" his manner was deprecatory.

*Mr. Martley.*—What?

*Mr. Whiteside.*—Deprecatory. Have you any objection to that?

*Mr. Martley.*—Yes; I don't understand it. *To Witness.*—Have the goodness to tell us what he said?

*Mr. Napier.*—His manner is not what he said, you know.

*Mr. Whiteside.*—State what he said to you, Mr. Mathew, if you please, and just the manner.

*Mr. Martley.*—You may mimic it if you like.

*Plaintiff.*—He said, "I am an old man, and I am going to die (laughter); and I suppose I need not tell you that I cannot bear any agitation or excitement;" he said that outside the door of my room; he asked me had I called on Dr. Sadleir, and also if I had got a cap and gown; then he asked me something about my studies, and gave me a few directions about taking care of myself; I never saw him in my room in College after that; just as he was going away on that occasion I asked him a question about my family; he said—"Oh, what do I know about your family? I have told you all I know about them—why don't you mind your College studies—why don't you mind your business?" the next morning after that I called upon Dr. Harty; I got an account which I handed to Dr. Sadleir, and received £2 6s.; there was £5 stopped for the expenses of Stokes's visit to Derry.

*Mr. Martley* objected to parole testimony respecting a document which would speak for itself.

*Mr. Whiteside* said that there was no doubt about the fact which the witness had mentioned; and it was desirable to save the time of the Court, and avoid sending for the document.

*Mr. Martley.*—Oh! here it is. We had it among our papers.

*Examination of the Plaintiff continued.*—This account is in the handwriting of the plaintiff. The following account was then read:—

From H. W. Mathew	...	...	...	...	£15	0	0
Dr. Payment at Swift's	...	...	...	..	£7	12	6
Mr. Stokes's expenses to and from Derry, and other necessities	...	...	...	...	5	0	0
Car-hire to Swift's	...	...	...	...	0	1	6
					£12	14	0
Balance	...	...	...	...	2	6	0

*Witness.*—Stokes had told me that the journey to Derry was upon his own business; when I called at Dr. Harty's house I questioned him about my family, but got no satisfaction; I asked him why the £5 for Stokes's expenses to Londonderry was charged against me; he said because he had to send for me; I asked him why it was £5 instead of £3, which was the charge to and from Derry; he said, "Oh, there were other things; besides I don't like this kind of investigation; when will you pay me what you owe me?" when I asked him what it was, he

refused to tell me ; I then said I wanted to speak to him particularly—that for several years reports had been spreading much to the disadvantage of both of us, and I wished to speak to him particularly on the subject, and I would not detain him longer than was necessary ; he said—“ I am very particularly engaged just now—there is a gentleman in the next room waiting for me.”

**CHIEF BARON.**—When you asked him how much you owed him, what did he say ?

*Plaintiff.*—He refused to tell me.

*Examination continued.*—He said that he would call on me at my leisure in College ; I never saw him since ; there has been no interference with my liberty by Stokes or Dr. Harty since, and I am now master of my own acts.

The direct examination of the plaintiff closed here.

*Mr. Martley, Q.C.*, said he was anxious that his cross-examination of the plaintiff should not be broken off that evening.

The case was then, at half-past four o'clock, adjourned to next morning.

## THIRD DAY.

*Saturday, 13th December.*

The trial was resumed at the sitting of the Court.

*Mr. Henry William Mathew* was placed in the witness-box. He was cross-examined by *Mr. Martley, Q.C.*, on the part of the defendants.—I was a boarder at the Feineiglian school ; the terms there were £60, or 60 guineas per annum for some boarders, and £80 for the higher class ; I was in three classes as a boarder each half year ; I rose a class each half year ; the charge at Dr. Bailey's school was £40 a year ; in the first year I obtained the annual medal : I fell off a little in attention after that ; Dr. Bailey persuaded me to read for sizarship, but when ready to enter I entered as a pensioner ; during the latter years of my stay at school I was not so attentive as I was at first.

*Mr. Martley.*—I suppose you had taken up music at that time ?

*Witness.*—Well, yes, I did ; I had taken it up before.

*Mr. Martley.*—Have you considerable musical talent ?

*Witness.*—I have great musical taste ; that is to say, I am very fond of music.

*Mr. Martley.*—I suppose, according to Mr. Hamilton's “character,” you had a musical development ?

*Witness.*—Yes.

*Mr. Martley.*—That is rather a dangerous gift.

*Witness.*—I don't know that it is exactly dangerous unless it is carried to a great excess.

*Mr. Martley.*—It had the effect of slackening your attention to your studies ?

*Witness.*—I don't suppose that music had that effect ; before I entered College I became studious again.

*Mr. Martley.*—During the two idle years to which you have referred, you got no distinction ?

*Witness.*—I was occasionally at the head of my class.

*Mr. Martley.*—How long did you stay at Stokes's upon the first occasion ?

*Witness.*—About twenty-one months ; I got the sizarship in 1843 ; I remained with Stokes for some months afterwards ; I was in Ardee for some time—during the twenty-one months Stokes was living in Dorset-street ; in November, '43, I went to reside in College ; I was intimate with Stokes's family ; I was very well treated by them—very kindly ; after I left them I was still more kindly treated by them ; they seldom saw any company ; Dr. Joynt was not there then ; I saw him in Drumcondra ; I was at Mr. Flynn's school at the end of the time I was remaining in the house of Stokes ; that was in November or October, '43 ; I continued there for a year receiving a salary ; I became acquainted with Mr. Maskerry at the Luxembourg school ; continued to know him intimately up to the summer of '48 ; I can't say I was daily in the habit of seeing him ; at some intervals, when he was particularly engaged in studying, I did not see him ; I constantly saw him in '44, '45, and '46, and up to the time (1847) that I went to Drumcondra ; not so frequently afterwards, till I returned to Dublin ; I met Mr. M'Sorley at Mr. Flynn's school ; I was not so intimate with him as the other ; I became acquainted with Mr. J. P. Harris in 1844 ; I was tutor to him for a year, till the summer of 1845, as well as to some other pupils ; I frequently went to his house, dined there, and spent the evening, up to the time that I got scholarship ; I frequently spent evenings there while I was in Drumcondra ; I became acquainted with Mr. Murphy in '43 ; we met at the same table almost every day at dinner : we dined together almost every day for nearly a year and a half ; my acquaintance with Mr. Hall commenced in 1846 ; about the summer of '46 I became very intimate with him, when he went to live in College ; he came to live in College early in '47 ; I was in constant habits of association with him ; I met him both morning and evening ; we were in habits of daily intercourse ; I have known Mr. Hazell for six or seven years ; I was not in the habit of associating with him so often as with Mr. Hall ; we were acquainted in Kilkenny College ; I frequently associated with him (Mr. Hall) ; he had lodged in Anglesea-street ; I used to assist the brother of Miss Cornelia Bracken in his education ; our intimacy continued almost to the time when he left Ireland ; most of the time I was in the habit of visiting at his house during the years 1844, '45, '48, '49, '50, and the present year ; we frequently spent evenings together ; I had not very many other intimate acquaintances in College ; I don't exactly remember I had other acquaintances in town ; I was occasionally at the house of Mr. Stokes—not very often ; at various times I had a good deal of society ; at other times I had not ; I had few to visit ; when I was laid up with sore eyes, I saw few ; I went out as much as was compatible with my stu-

dies; I had dyspepsia, the common meaning of which is indigestion; I laboured under it for several months; it did not prevent me from going abroad; I called on Dr. Harty, and he advised me to see Mr. Stokes; this was when I was ill; I consulted Dr. Harty about Easter, 1847; my illness was such as to prevent me from studying; I was obliged to relax my mind, and give up studying; Dr. Harty advised me to see Mr. Stokes; this was about the end of April, or beginning of May; Stokes called upon me, and asked me to go to his house; I said this yesterday; I spent an evening at his house; I went in for scholarship four times; I will explain.

*Mr. Martley.*—I don't want any explanation.

*Mr. Whiteside.*—I submit, my Lord, he has a right to explain why it was necessary for him to go in for scholarship so often.

*Mr. Martley.*—Let me go on, I don't intend impeaching his literary character, nor yours either.

*Mr. Whiteside.*—I am above that. (A laugh.)

*Mr. Martley.*—I intend quoting from you.

*Witness.*—I was upon terms of intimacy with Mr. Maskerry's and Mr. Macken's families; I was also intimate with Mr. Hall's family; I don't remember that anything occurred when I called upon Mr. Stokes; it is probable I did tell him I was ill; it was about the end of April or beginning of May I called upon him, and he called upon me after the scholarship examination, which takes place on the Thursday and Friday before Whit-Sunday; I saw Dr. Harty subsequently to that time; I went to the house of Mr. Stokes, and lived there for some time; I gradually improved in Stokes's house; I visited different families, for instance Mr. Darlington's family in Baggot-street, Mr. Harris's, Mr. Macken's, and Mr. Hall's family; that certainly did tend to improve my health; Doctor Harty prescribed for me pills; he prescribed blistering ointment upon the crown of my head; I understand that it was Dr. Harty's common method for a variety of diseases (laughter); he ought to have had a good deal of experience in treating insane persons; nobody ever told me it was his habit to blister for dyspepsia; I don't remember having heard any one say so; I have known him myself to blister lunatic patients upon the surface of the head; I mentioned that I heard this was his habit, but I don't remember from whom I heard it; it was before this action was commenced I heard it was a favorite method of treatment with him; I think I heard it after he blistered my head; I don't remember that I was bled at the time; I think not; the ointment was applied several times by defendant, Stokes.

*Mr. Martley.*—During that time were you perfectly collected?

*Witness.*—I was dispirited.

*Mr. Martley.*—And dyspeptic?

*Witness.*—Yes.

*Mr. Martley.*—Were you perfectly balanced in your mind?

*Witness.*—I had possession of my understanding and the use of my faculties.

*Mr. Martley.*—To the fullest extent?

*Witness.*—I will not say that; by bodily illness I became peevish, fretful, and querulous.

*Mr. Whiteside.*—That is no proof of insanity ; it would clear the bar if it were.

*Mr. Martley.*—And deprive it of one of its brightest ornaments (a laugh).

*Witness.*—I did not expect to recover.

*Mr. Martley.*—Did you ever talk of such a thing as hastening that event?

*Witness.*—No.

*Mr. Martley.*—How were you treated by the Stokes' family at Drumcondra?

*Witness.*—Rather well ; part of the time tolerably ; there were children there ; I was fond of children ; Dr. Harty saw me part of the time ; he saw me at intervals.

*Mr. Martley.*—Did you ever vent your peevishness on yourself?

*Witness.*—I don't recollect ; I was in the habit of walking in the garden with Dr. Joynt ; I was sometimes alone.

*Mr. Martley.*—During that time you behaved yourself with perfect self-possession ?

*Witness.*—I said I was peevish and querulous, and easily annoyed ; I was very much depressed in spirits ; I thought I would not recover ; when I found I was recovering I assumed a more cheerful tone of mind ; I would not attribute my improvement to the blistering ; I don't remember I had a habit of talking to myself ; I remember I thought I had injured my health considerably, and I said so.

*Mr. Martley.*—That was by dyspepsia ?

*Witness.*—How could I injure it by dyspepsia ? (a laugh).

*Mr. Martley.*—You said so ?

*Witness.*—You put the words into my mouth. In the winter previously I had not been in the habit of dining at commons ; I was living too solitary a life, not seeing society ; I said I had seen certain persons, but not general society.

*Mr. Martley.*—Did you not say you had as much society as was consistent with study ?

*Witness.*—I may have said so ; I say I was not mixing in general society ; I did not dine at the table at commons ; my name was upon the sick list in consequence of sore eyes ; I could have restored my name on commons, if I liked ; I neglected to restore it ; during the latter end of '46 and beginning of '47, the witnesses who spoke as to intimacy with me saw me occasionally ; I occasionally said to others that I had injured my health by not dining at commons ; I found it a bad thing to live alone and I resumed commons ; from April to June I resumed ; for the two months before I went to Stokes's, I had removed some of the causes that affected my health ; I recollect saying " I have injured myself."

*Mr. Martley.*—Am I to understand it was by the specific circumstance of omitting to restore your name upon commons that your health had been injured ?

*Witness.*—Yes, I attribute my dyspepsia to living by myself so long.

*Mr. Martley.*—The other persons you mentioned were living by themselves and studying ?

*Witness.*—As a general rule, one need not be solitary in College

unless he please, or that he is studying; there is a good deal of intellectual society in College; there are College students who do mix a good deal amongst themselves in College, and others who do not; the first year (1847) my health was so poorly I could not read; the solitary, sedentary life I was leading induced depressed spirits; I was too much depressed and ill to read; the first year I had not read all the business; the year after that I omitted reading one of the principal books; in the fourth year I had a general knowledge of the business.

*Mr. Whiteside.*—Here is a young man struggling for his bread, and of course—

*Mr. Martley.*—I wish you would struggle to keep yourself quiet. Struggling is a proper word; have I given it the true Athenian pronunciation?

*Mr. Whiteside.*—Oh, Athens, indeed; very like Athens. (A laugh.)

*Witness.*—I did not think it very certain that I would succeed upon the fourth occasion, from my experience of the precariousness of the examination; I never said or thought it arose from the want of capacity of the examiners; there is a large course to be read; in a small portion of this you are examined; each examiner applies himself to a portion, and for this reason the examination is rather precarious; I did say to Dr. Sadleir, after I went in for the scholarship of 1849—

*Mr. Martley.*—That you were a better scholar than himself.

*Mr. Whiteside.*—My Lord, I object.

*Chief Baron.*—It is not right to interrupt the witness in that way.

*Witness.*—I recollect saying to Dr. Sadleir, as I was passing out of the College gate, that I thought I had deserved better marks in some of the books, for that I was well prepared in that examination; there was one book that I had omitted to read, and that was "Tacitus."

*Mr. Whiteside.*—That is a beautiful book—Tacitus.

*Mr. Martley.*—Did you ever read it?

*Mr. Whiteside.*—I wonder did you?

*Mr. Martley.*—If you did, I wish you would practise it a little more. (Laughter.)

*Witness.*—I had made application for tuitions both for town and country; I was in the habit of seeing the *Saunders* daily, principally for the purpose of looking at the advertisements; the advertisement of Mr. Bowen appeared upon the 23rd of March; the answer was to be sent to the Rev. Mr. Millar, of Ballinahiddy, near Drogheda; I sent an answer; the reply of that gentleman was favourable; Mr. Bowen told me subsequently that Dr. Millar had given him a most favourable account of me; I concluded with Mr. Bowen shortly before the scholarship examination; I got notice from Mr. Bowen to go down shortly after the examination for scholarship; Stokes did not visit me at all during that time; he seemed to avoid having any communication with me; whenever I saw him he would generally hurry off; he called down upon me the very day of the declaration of the scholarship, and he wanted me to dine with him.

*Mr. Whiteside.*—Because you had your dinner that day, he wanted you to dine with him. (A laugh.)

*Witness.*—Stokes advised me to go to Dr. Harty; when I got the scholarship, I asked him (Harty) what he thought of the idea of going to Mr. Bowen's, and he said it would be a good thing to spend the summer months in the country, if I had ascertained the character of Mr. Bowen; I did not take any measures to ascertain the character of Mr. Bowen; I had corresponded with him; I was rather diffident, and hesitated as to whether I would go down immediately or not; I found Mr. Bowen's character as it should be—a gentleman in point of kindness and conduct.

*Mr. Martley.*—You did not realize upon that occasion Mr. White-side's affecting picture of the ill-treated governess?

*Witness.*—I did not.

*Mr. Martley.*—Why postpone your design to go down?

*Witness.*—Because I did not think I was sufficiently ready to go.

*Mr. Martley.*—Your stores of information were defective?

*Witness.*—No; but my wardrobe was not made up.

*A Juror.*—You did not mean that you did not think yourself perfectly qualified?

*Witness.*—Oh, no.

*Mr. Martley.*—There is no doubt he was qualified as to knowledge; he explains it was merely for the purpose of procuring his wardrobe.

*Witness.*—I hesitated before I entered into a family whom I might not like; I felt myself bound, as I had arranged with Mr. Bowen, to go down; I fully acquiesced with Dr. Harty that it was a wise measure to go to Mr. Bowen's; I was treated with very great kindness, by Mrs. Bowen particularly; the journey was a very tedious one; there were railways then; I don't know of any occurrence to render the journey disagreeable independent of its being tedious; I left Dublin at a quarter past seven o'clock in the evening, and I arrived in Derry at twenty minutes past eight o'clock next morning; I am not acquainted with any of the persons who travelled down with me; I heard the name of one was a Mr. Franks, a solicitor of Derry; I recollect I was nervous; the journey rendered me unpleasant, but I don't recollect intending to come back; I said before that I felt myself unwell; Mr. Franks advised me to remain at Strabane; I said I thought as Mr. Bowen would send down his car for me I should go on; I felt unwell and heated during the journey on the coach; that is what I call being unwell; I was nervous and heated; I thought it better to go on even as it was, though they advised me not to go on; I expected to be met by the car of Mr. Bowen.

*Mr. Martley.*—Except the inconvenience of travelling at night and being heated, you had no indisposition to go on?

*Witness.*—I don't exactly understand you.

*Mr. Martley.*—You say there was nothing would induce you to return but being heated?

*Witness.*—I don't remember; I recollect the gentlemen saw me uncomfortable and heated, and they recommended me first to get out and spend the night about the middle of the road.

*Mr. Martley.*—The middle of the road!

*Witness.*—Oh, no, a place between where I was and Strabane; I



think it was just before our arriving at Aughnacloy, or the next stage, perhaps ; they advised me to stop at the next place, I believe Omagh ; my position in the house in Derry was extremely comfortable, and they were very kind, I was ill at Mr. Bowen's ; I felt nervous depression ; dyspepsia was partly the cause of it ; Mr. Bowen spoke to me about an increase of salary ; the original agreement was £40 a-year, he raised it to £45 ; as far as Mr. Bowen's family were concerned I had every reason to be satisfied ; I felt I could not do justice to my pupils ; I could perform my duties, but not with sufficient energy ; I was about seven hours engaged ; from half-past seven A.M., to nine ; from ten to one P.M., then from four to a quarter to six o'clock ; Mr. Bowen recommended me to go to Dublin ; Mr. Stokes did not come down for me upon that occasion ; I left with regret ; I did not shed tears upon that occasion ; I wrote two letters and handed them to Mr. Bowen—one was written a fortnight before the other ; I saw Dr. Harty in two or three days after I went to Dublin ; the first observation that Dr. Harty made was, "Don't you see his liver is congested." I don't know how Stokes was to see that my liver was congested for looking at me ; I suppose if he were a medical man he would have understood him ; my head was partially blistered as before ; the treatment I received was similar to that on the former occasion ; I was very kindly treated by Mr. Stokes ; I left Mr. Bowen with regret ; I told Mr. Bowen that I would not like to leave him altogether ; I felt bound to mention what I did ; I felt diffident in going back ; I had a diffidence about my physical state, and Mr. Bowen told me that all I wanted was confidence in myself ; I told him he might consider me better qualified than I was, and I wished to state to him what I did state ; I had been afraid that my health would not enable me to do duty there ; I had a thought about engaging as a tutor in the family of Mr. Stokes ; as I knew the family I felt myself at home there ; I liked their children very well ; I had not the restraint there that I had at Mr. Bowen's ; every tutor feels more or less restraint in a strange place, and I thought I would be more comfortable in the family of Mr. Stokes ; I knew that the situation would be more eligible in Mr. Bowen's family ; I remained upon the second occasion for four months ; I sometimes accompanied the young ladies on the flute ; I found that Mrs. Bowen expected me to do more than I felt bound to do ; she expected me to spend almost all my time in my tuition ; part of the time in the evening, and so forth ; she mentioned to me particularly, there was a Mrs. Blake in the house giving lessons in dancing, and she said to me that Mrs. Blake did not take any notice of time, and she (Mrs. Bowen) expected that I would do the same.

*Mr. Martley.*—It was this lady's duty to keep time.

*Witness continued.*—Mr. Bowen on one occasion found one of the boys deficient, and he pointed out to me the fact ; one morning they objected that I had not taught the boys other things ; that was in October ; there were some petty misunderstandings ; it was said to me that I had shown apathy and ingratitude generally, not towards the young people particularly ; I said to Mr. Bowen I was surprised to hear that it was thought that I was apathetic or ungrateful, for Mrs. Bowen sat in the room for two

hours each day, and she had an opportunity of judging, and I asked Mr. Bowen to come into the room and judge for himself, but he said he could not do so; it was against my inclination that I left their house; I wished to remain, as I would wish to remain in any tuition; Mr. Bowen gave me a testimonial; one of the first acquaintances I made in Derry was young Walsh; he is about twenty-one years of age; he has a situation in the choir; I had other acquaintances; one was an acquaintance of Sir Robert Bateson (Mr. M'Clintock); the other was a young man named Sproule; I sung at the Choral Society that met in the Town Hall of Londonderry; I performed a solo, and was received as favourably as I wished; the theatre was at a place called Wapping; it was not constructed upon boards (a laugh); Walsh had agreed to sing there, "I'm Afloat," and he afterwards refused to sing, because he thought it might cost him his situation; I did not sing "with unbounded applause;" I was rather too nervous to pay particular attention to the way in which I was received; I was looking for tuitions at the time; I had just left the family of a clergyman of the diocese of Derry; it would have suited me to have got into the family of another clergyman of the same diocese; I don't remember having made any application to another clergyman in Derry.

*Mr. Martley.*—Did it occur to you that a clergyman of Derry might not consider it a recommendation that you had been upon the boards of a theatre?

*Witness.*—I was not so desirous to get into the family of a clergyman; I was anxious to get a tuition in England, Ireland, or Scotland; I did not consider it likely to lead to my getting a situation in Derry to appear in the theatre and sing; Mr. Hamilton spoke to me on the subject of leaving Derry; he did not say anything about the singing in the theatre; he said I was very fond of theatrical performances; he said that Stokes had requested him to call upon me, and induce me never to return to Dublin; he also said that Stokes had written to me, and that he had not received any answer; he also said that Stokes considered it very strange that I had not returned to my College duties; he apprised me that Stokes wished me to return to my College duties; I replied that I knew more of those matters than Mr. Stokes, and he had no business to interfere; I met Mr. Hamilton in the house of Mr. Stokes in Drumcondra; he is a cousin of the wife of Mr. Stokes; I think I told him I understood my own affairs better than he did; I did not refuse to leave Derry; Mr. Hamilton asked me if I would return to Dublin with him; I replied that I was very unwell with a cold, and could not; I had no dyspepsia upon this occasion; I did not think that Mr. Hamilton had a cold at the time; I told him if he would write to me, telling me the very day he would return from Derry to Dublin, I would let him know if I could go with him; he did not write to me; I had often praised Mr. Hamilton as a professor of phrenology to various parties; nothing was paid me for my services; nothing was actually paid me; he was to pay me a pound or a guinea a week, but he did not pay me anything.

*Witness.*—I owed a debt to Foley; I owed about 30s. to my tailor; I have paid him since then; there is another small debt I have not

paid ; I think it is a debt between £2 and £3 ; I paid all my debts in Derry ; I owed a grocer 17s. 10d. ; that was for a period of six weeks ; I think I owed between £8 and £10 ; when I came to Dublin I was quite recovered of my cold ; I started upon Wednesday evening from Derry, and arrived on Thursday ; I saw Dr. Mollan on the Friday. Witness then added to the testimony given on the previous day that he recollected he had been leeches as well as blistered by Dr. Harty.

[*Mr. Martley here read the passage from the report of the evidence in a newspaper, in reference to the manner of Dr. Harty being harsh and tyrannical, and witness said that what appeared was quite correct.*]

*Examination continued.*—When I went down to Derry in August, I was in comparatively better spirits ; I told Dr. Mollan, in my interview with him, that it was not so much the treatment of Dr. Harty as my removal to the country that had restored me ; my interview with Dr. Mollan lasted about half an hour ; I don't remember that anything passed upon the occasion of the interview with Dr. Mollan besides what I have stated ; I don't remember that he spoke about my habits of body, or any other habits ; I do not positively assert that I did not say more to him, but nothing occurred that has made an impression on me ; during my absence in the country, Foley had sent communications ; they were put into my letter-box in College, and Mr. Stokes handed them to me open in the presence of Mr. Hamilton ; I had no communication with Foley, except the letters which Mr. Stokes gave me.

*Mr. Martley* pressed the witness as to the contents of the letters.

*Mr. Whiteside* objected, and the CHIEF BARON ruled that the plaintiff was not bound to give evidence in reference to them.

*Witness* said he was not aware that the letters were in Court ; they might be in his rooms in College, or his attorney might have them.

*Mr. Clay* (plaintiff's attorney).—I never got them.

*Witness.*—I think I saw them in my room in College ; read them upon receiving them from Stokes.

*Mr. Whiteside* said that no notice had been served upon the plaintiff for those letters.

*Witness* (to a juror).—The letters were handed to me open ; the handwriting was Foley's, and I was aware that they came from Foley.

*Witness* was then asked if he was aware that Foley was paid ? He said he had been told so.

*Examination continued.*—I was seven weeks and two days in the Lunatic Asylum. I don't remember having threatened to bring an action against the people in the asylum ; I remember speaking to one of the keepers about Mr. Hayden's case ; I did not threaten to bring an action against any of the keepers ; I frequently spoke to Mr. Cumming upon the subject of Dr. Harty confining me in the asylum ; what I said yesterday in reference to the manner of Dr. Harty I applied to his general manner ; I said, for the most part, his manner was harsh and tyrannical ; as to his conduct, I said that his principal kindness to me was in lending me a few pounds ; I have, as well as I can recollect, described him as having been imperious and tyrannical ; I never stated to himself that his manner was such ; I never stated the reverse, that

I remember ; I recollect speaking to him with regard to the advice he gave me.

*Mr. Whiteside.*—Advice costs nothing.

*Witness.*—I told him upon one occasion that I regretted I had not taken his advice.

[*Mr. Martley here read a letter addressed by the plaintiff to Dr. Harty, in which he acknowledged the extreme kindness which he had ever shown to him, and spoke about his fondly hoping to pay his long-standing debt to him.*]

*Witness* said that the conduct of Dr. Harty had been on some occasions kind, but his manner was harsh, imperious, and tyrannical.

*Mr. Martley.*—Then you draw a distinction between the manner and conduct of the plaintiff ?

*Witness.*—Yes, he certainly did take trouble at various times.

*Mr. Martley.*—And did you consider that taking trouble with you was kindness ?

*Witness.*—I did ; he gave me advice.

*Mr. Whiteside.*—And pills ? (A laugh.)

*Mr. Martley* (to witness).—Have you read Shakspeare ?

*Witness.*—Yes.

*Mr. Martley.*—Have you committed any part of him to memory ?

*Witness.*—Yes.

*Mr. Martley.*—Were you in the habit, in the month of June, 1850, of repeating any of the soliloquies in Hamlet ; I mean the soliloquy in reference to suicide ?

*Witness.*—Oh yes—you mean the passage—“ To be or not to be, that is the question ?” Yes, I do remember once or twice repeating part of the soliloquy ; I began it, and I went on through most of it ; I occasionally repeated it.

*Mr. Whiteside.*—It is a very beautiful soliloquy.

*Mr. Martley.*—Do you recollect the passage—“ Who would fardels bear to grunt and sweat under weary life ?”

*Witness.*—Yes, the word “ fardels ” struck me as a strange expression.

*A Juror.*—And do you also recollect the passage which touches upon “ the law’s delay ?” (Great laughter.)

*Mr. Martley.*—I am asking you seriously, witness, if you were ever in the habit of muttering this to yourself ?

*Witness.*—Not muttering.

*Mr. Martley.*—Do you remember the passage, “ Who would bear the whips and scorns of time, &c., when he himself might his quietus make with a bare bodkin ?”

*Witness.*—I recollect, when others were in the room, I repeated it.

*Mr. Martley.*—Did you ever repeat it in the garden by yourself ?

*Witness.*—No.

Some letters which the plaintiff admitted to be his handwriting were, after some discussion, entered as read.

*James Holahan* examined by *Mr. Armstrong.*—His mother held a situation in the Lunatic Asylum already referred to, and he was allowed to walk through the grounds attached to it ; he remembered

seeing the plaintiff there in the spring of the present year, and often conversed with him; he conversed sensibly and rationally, and in no other way; witness took a letter from him to the Rev. John Gregg; he left the letter with Mr. Gregg's servant; delivered another letter for him to Mr. Hall; witness supplies the writing materials; there used to be keepers in the garden to prevent any one from getting away.

*Mr. Napier* then handed in some letters which had been referred to in a former part of the trial, and the plaintiff's case closed.

The following letters were entered as part of the plaintiff's case:—

*From Mr. Stokes to Plaintiff.*

"DEAR MATHEW,—I got your note to-day, and shortly after saw Dr. Harty. There is a friend of ours, a magistrate, below Buncrana, who is anxious to get a tutor: I have been corresponding with him for some time, and shall write to him by this post; he may perhaps correspond with you, so you are to have a look-out for a letter which will be directed to the Derry post office, *to wait till called for*. The gentleman's name is RANKIN, of Tuonaleoge, Carndonagh. You will likely hear by Monday from both of us. I shall tell you all particulars in my letter.

"Your's truly,

"Dec. 3rd, 1850."

"ROBERT STOKES."

*From Dr. Sadleir to Dr. Harty.*

"February 12th, '51.  
 4, T. C. D."

"MY DEAR SIR,—I have just returned from London, and lose no time in sending you an answer to your note, relative to Mr. MATHEW. I enclose a draft for £15, which you will please to acknowledge the receipt of.

"Your's very truly,

"DR. HARTY."

"WM. DIGBY SADLEIR."

*Account of Expenditure of said £15 for H. W. Mathew.*

1850.—A quarter's payment at Swift's	-	-	£7	12	6
Mr. Stokes, for expenses to and from Derry, and other necessaries	-	-	5	0	0
Car-hire to Swift's, February 3rd	-	-	0	1	6
			<hr/>		
Expended	-	-	12	14	0
Balance	-	-	2	6	0
			<hr/>		
			15	0	0

A letter written by the plaintiff to Dr. Sadleir, from the hospital, was objected to. The Latin letter, written by Mr. Mathew to Mr. Hall, was rejected, and not given in evidence.

*Mr. Martley, Q.C.*, then addressed the Court and Jury on behalf of the defendants, and said—My Lord, and Gentlemen of the Jury, as some

of you have complained of the "law's delay," I shall endeavour, even at this advanced hour of the day, to make a commencement. I can, with perfect truth, state that, in the course of my experience, I have never known, or almost heard of, a more painful case than the present. I have a most serious—a tremendous duty to perform; for I cannot be insensible that a strong prepossession has been created in your minds in favour of the plaintiff, arising from his having had an unlimited opportunity of shaping his own case as he thought fit, and presenting to you so much of the truth, or so little of it, as suited his purposes. I, therefore, earnestly entreat that you will allow an equal measure of the "law's delay" to the defendant, in order that you may fully hear and understand his case. If it were true that the defendant, Dr. Harty (for it must be plain to you that Mr. Stokes is out of the question here) had deliberately interfered with the career of this interesting and promising young man; and if, as has been represented, without cause or pretext, without excuse or justification, he has placed in a madhouse a person perfectly sane, the long speech of my learned friend Mr. Whiteside, characterised as it has been by great oratorical qualities, was unnecessary; for the simplest and the least exaggerated statement of such a case would have been the most effectual. But if, on the other hand, this story is not true—and a charge so monstrously flagitious against the defendant was unfounded—one could have wished that he had not been made the object of such a storm of vituperation. It is a maxim of the law that a man shall be presumed to be innocent until he is proved to be guilty. No doubt, the liberty of the subject, and the independence and greatness of this country, very much depend on the liberty of speech allowed to counsel, and on the speeches they usually pronounce in *Nisi Prius* Courts. It may happen, to be sure, that captious persons may call their license of speech licentiousness. However, it is a comfort that they have the courts of law all to themselves; and laymen, when attacked there, cannot address juries in reply. Nevertheless, I cannot help remarking that when a man is engaged in the process of remorselessly belabouring a person who can neither resist nor retaliate, he should at least feel that there was a something in such a proceeding hardly consistent with the notion of what would be on other occasions considered manly and courageous. If this statement against Dr. Harty be not well founded, it is a hard thing upon an old man who has lived a long life, and has filled public offices, and has never been charged with a transaction of this kind. I repeat what I say, and I care not how unjustly insinuations may be made to the contrary, I state that they are not true. It has not often been his Lordship's lot to try an indictment charging a more grievous offence than is here imputed; and there can be no doubt, that if Dr. Harty and Mr. Stokes are guilty of it, they are amenable, in addition to the result of this trial, to be criminally indicted. It is a well known principle of common law, that in proportion as an offence is grievous and disgraceful, juries should be slow to believe it, and should require full, satisfactory, and convincing proof of it; and, above all things, where a man is accused of a grievous offence, it should be shown that he has some motive in committing it. The tribunals of justice, as now

constituted, are above all impeachment; there can be no such thing as dark and secret acts of oppression now-a-days; and those who rush into the commission of such acts have no imaginable way of escaping justice, at the hands of either a civil or a criminal court; therefore, when a man is charged with an offence of this sort, in giving proof of the fact some motive for the commission of it must be suggested. But in the course of this long trial, in the course of the lengthened examination of this interesting young man, whose manner and demeanour have no doubt greatly prepossessed you, and who was so acute and clever in giving his testimony, has there been a motive suggested why Dr. Harty, who has some character to support, and Mr. Stokes, who is amenable to the laws of his country, civil and criminal, should, without cause or provocation, have shut up in a madhouse this young man, over whose prospects, whether with real or affected care, Dr. Harty has so effectually watched for seventeen years. Some how or other, for some cause or other Dr. Harty has been the instrument of his attaining the excellent position in which he stood previous to the act complained of. Dr. Harty has paid for his schooling at the highest rate, and in the most respectable establishments, for a number of years, on a footing entitling him to rank with any gentleman educated in the country; and what was the reason, why, when the seed had begun to bear fruit, Dr. Harty should come in, and trample down the whole harvest under foot? Surely you ought to have something in the nature of a motive suggested to you, before you jump at the conclusion that anything so monstrous has been done in these days. I do not know, whether the representation in the testimony of the young man, that at one time Dr. Harty used this extraordinary language, "He is now twenty-one, and if he had any property he would come into the enjoyment of it," would be seriously and soberly brought forward as a suggestion to you, that Dr. Harty had funds to defray the expenses of his long course of education. Even if the case be so, although it is utterly inconsistent with the rest of the evidence, in which you are told, that five or six years ago all the money that Dr. Harty ever had for his maintenance had been expended, I would not imagine what object he could work out by the clumsy contrivance of putting him into Swift's Hospital, even though he should have been able, as has been suggested, to perpetrate the act secretly and clandestinely, and to incarcerate him there for ever. I have not yet come to the portion of the evidence, which I shall bring you to by and by, to satisfy you, that by word and by letter, in private conversation, and in deliberate composition, that young man always frankly and warmly acknowledged that Dr. Harty has been his best his only friend. Undoubtedly, if that were so, it will be for my learned friend, who is to follow me, to satisfy you why so great a change should have come over the plaintiff's feelings. It could not be altogether the circumstance that he was treated as a lunatic; for struggle out of this how his counsel may, we have already, upon his own testimony, the plain admission, that on two separate occasions he was treated as a lunatic, or treated for some aberration of mind, or failure of intellect, and that he was treated successfully. Neither of those occasions gave rise to the feelings that now unques-

tionably exist, or at least that are now insinuated, at every practicable opportunity, even after the offence has been committed for which the plaintiff is this day persecuting his former benefactor. I believe we shall be able to show that his language still continued to be that of the most unrestrained and unbounded gratitude to Dr. Harty. However, it is not upon this the case for the defence rests. I have already said this is a most painful case. I have now to bring before you the case of an old man, past the age of three score and ten, weighed down with years, and I grieve to say, since this transaction has occurred, pressed heavily by the additional infliction which it occasions. Human foresight could scarcely anticipate whether this transaction will not be the closing one of his existence; for I have heard that which leads to a grievous apprehension that such may be the case; and therefore, although in deciding this case according to the law, and the facts, and your consciences, you cannot look to consequences, but must adhere to justice, without either, upon the one hand, leaning in mercy towards the old and failing, or showing favour, upon the other, to the young, the vigorous, and hopeful; still, I trust that you will bear with me, for I feel deeply and oppressively, the task which is laid on me, of advocating the cause of this old man, whose good name and fame, and whose very existence are threatened by these proceedings. The case has been opened with a bold challenge; damages have been laid at £5,000; and you are asked, in addition to that crushing pecuniary penalty, to blast the character of a man who has lived for seventy years in the community in a position of respectability. It is not any part of my task, as it has been of my learned friend—and he has always performed his task efficiently, and no doubt willingly—to cast obloquy, and censure, and vituperation upon any one. It is no part of my instructions to impeach the title of the plaintiff to the possession of considerable talent, attainments, and accomplishments. It is no part of my case, and I rejoice at it, to assail by one single observation of doubt or distrust the body of evidence which has been given to you by the large number of most interesting young men who have been produced before you, and whose appearance, demeanour, and intelligence, were a credit to our University and our country. I have nothing to say against Mr. Mathew, or in derogation to the testimony given of his abilities and attainments. If it should unfortunately turn out that, with all his talents and accomplishments, he has not at all times been of sane mind—if it should happen that the act of his detention was an act of kind and necessary precaution, and called for to prevent a calamity which had fallen upon many men of great mind—if such should happen to be the case, it might be some injury to him, and might detract from his prospects, but the defendant is not answerable for it. It will be for you to say whether that which has been done has not been done necessarily, and with scrupulous care to avoid such a calamity as that to which I have alluded; if there were any facts or circumstances in the case, calculated to wound the plaintiff's feelings, the unfortunate defendant is driven to put them forward, in order to free himself from an imputation as monstrous as has ever been advanced. A class of testimony has been offered on the part of the plaintiff, the utter fallacy of which, as a criterion in a case of this kind, must have





appeared to you from your own knowledge and experience. Never do we feel more vividly how fearfully and wonderfully we are made, than when we approach the contemplation of those instances, in which one of the most dreadful and inscrutable of all the visitations of God's providence falls, as it often falls, upon the most gifted men. Was it to be told that a case like the present was to be tested with reference to intellect? I am sure my learned friend has not, in his extensive reading, passed over the cases in which the highest class of genius has been found united with temporary or permanent insanity. Does my learned friend forget, that one of the greatest poets of that land, which he had delighted with his presence, had been put into a madhouse? Had he thought of our own poets? Had he forgotten Collins; or that creature gifted with the highest poetical powers, and with purest and holiest heart—Cowper? did he remember what was his life, and what had near been his death? And were they to be told that the very highest and noblest class of intellect was a safeguard against that dreadful visitation? I should have thought that the very place which was the scene of this transaction, the very name which it bore, would have suggested the contrary. Who founded that place? Who is the man whose reach of intellect, whose sagacity of reasoning power, whose wit and sarcasm, whose mastery over the language of his country has never been surpassed, and who prophesied too truly that he would die like the oak of the forest—blasted at the top?—Swift. It is not many years ago since there lived in this country, and unhappily died in this country, a man of such a master-mind as did not appear in centuries, whose gigantic intellect was only matched by the purity and kindness of his heart, a man whose attainments, in the highest branches of human science, were almost unrivalled, as his reputation was unbounded. What was his end? madness and suicide. What would not the many friends and admirers of that never-to-be-forgotten man have sacrificed, if, but a few days before the close of his existence, some one could have been found energetic enough to place James Mac Cullagh in Swift's Hospital? And who can say, whether, in the inscrutable providence of God, the result of such a proceeding might not have been, that his genius would now be adorning and serving humanity? And yet if it had been done, and if the malady which, in all earthly speculation, arose from the overworking of the powers of a great intellect, had been calmed down by timely restraint, and those powers had been thus restored to their true tone; if the very impression and sense of restraint had worked out its own purpose, might not the person, whom this country would have blessed for the act, have been charged with the offence of unlawfully imprisoning that man? And what would have been the class of evidence in such a case? The brightest intellects of Ireland, of England, of Europe, of America might have been brought forward to prove, with the unhesitating, honourable generosity that belongs to great minds, that Mac Cullagh outshone them all. To whatever extent the evidence which has been laid before you is entitled to your credit, it has been kept sedulously, carefully, and, I believe, designedly clear of the times and transactions upon which you have to decide. It does not follow that because many persons may be found

who have had opportunities from time to time of seeing a person, and who might be able to say with more or less positiveness, that they had never noticed in him any acts of aberration, that that person might not be at times so insane as to be in danger of attempting his own life, and of doing injury to others. Nothing could be more complete or more creditable to our University than the evidence of the number of young men from Trinity College who have been examined. Their tutors had had opportunities so limited, that I need hardly speak of the testimony of those eminent persons who have given their evidence on behalf of their students ; but you, Gentlemen, must bear in mind, that the transactions which you have now before you occurred at times when not one of those young gentlemen were present. Recollect that when the plaintiff was at Mrs. French's, there was no suggestion that his intellect was affected. Recollect that when he was in the County of Wicklow nobody said, or thought, that there were any grounds for restraint ; and that when he was in Tipperary, it was not alleged he was affected by any madness. But recollect, Gentlemen, that very recently before the transaction now relied on, he had been in the house of a gentleman who has been mentioned to you with the most unqualified eulogy, and who is in all respects faithworthy, and fit to be examined, and with whom the plaintiff lived for five times the period that he resided with any of the others, and that gentleman has not been produced. I was astonished at my learned friend when, after a somewhat excursive flight of fancy, he exclaimed—"We desire the truth in this case, the whole truth, and nothing but the truth ; and I rejoice to see Mr. Bowen in Court, as he can be called by the opposite party." Where was the man who could know the truth of this transaction so perfectly as Mr. Bowen, whose evidence would have come before them with so little suspicion, yet the plaintiff had not ventured to produce him to tell them what the truth of the story was. I will now call your attention to an outline of the history of this case, the facts of which, notwithstanding the time it has already occupied, in truth were not very numerous. Sixteen or seventeen years ago this young man was brought over from England, where he had been at school, to this country by Dr. Harty, who placed him in what was then the most expensive school in Dublin, the Feinaiglian Institution ; he was afterwards placed at a school long celebrated for sound learning, the College of Kilkenny ; he was maintained all this time by Dr. Harty ; no evidence had been given of pecuniary resources for his benefit having been derived from any other quarter. His tutor, Dr. Bailie, proposed to Dr. Harty that he should be allowed to read for a sizarship ; and in order that his progress might not be stayed or arrested, he was enabled to enter the University at some expense as a pensioner ; and previous to his being supported at the expense of the College, he was maintained by Dr. Harty, at the cost of £40 a year, in the house of Mr. Stokes. It is remarkable, undoubtedly, that in the course of Mr. Mathew's evidence, he has been singularly ingenious in throwing out matters of imputation and disparagement upon both Mr. Stokes and Dr. Harty. When I come to exhibit to you his real sentiments, I will show that, whether truly or falsely, he had expressed the utmost possible affection for Mr. Stokes's

family that language could convey. After he obtained the sizarship he continued to be maintained in Mr. Stokes's house at the same expense for some months; and subsequently he took up his residence entirely in the University, and was allowed to support himself by the allowance which the College provided for young men of talent and of limited means, and by the usual additional means of taking pupils. Was that to be imputed as harsh, tyrannous, and oppressive treatment of the plaintiff by Dr. Harty? What better position could any man of limited means in the country have desired for his own son? There were men who, at that moment, might be truly numbered among the lights of the world, whose position in my time was that of sizars in College, having no other means of subsistence but their own exertions there, and the resources derived from such means, and they nobly and independently refused assistance from opulent relatives who would have willingly granted it to them, and, in the course of a brilliant career, were never heard to whine and complain that they could not read for honours because they were obliged to labour for their bread. Beyond all question, if there had not been some intellectual taint or weakness in the case of the present plaintiff, there would not have been a difficulty complained of which other men had not experienced, and we would not have had the case of a young man coming forward and admitting that he had been educated and fitted to earn his bread, and yet paying off the obligation which one would think had been thus conferred on him by a statement, in the first place, that the manner of his benefactor had been harsh, imperious, and tyrannical; and then, by the ungenerous assertion, even if it were true, that his kindness had been limited to supplying him with a few pounds. Let me go a step or two further. The plaintiff was taken ill, and his studies were interrupted. He was placed under what, in his sound moments, he admitted to be tender care, and was treated medically at the expense of Dr. Harty. His health was restored, and he resumed his studies; but it had been admitted by himself that he was not at all times very assiduous. Yet he now comes forward with an indictment against the man who preserved and educated him, consisting of the expressions of reprobation and expostulation which had been used towards him when he wasted his time and neglected his opportunities. You may think differently of appearances from what I do, and may be disposed to consider the evidence of the plaintiff and his explanations as satisfactory; but to me it appears that there has been an unworthy fencing with the truth on his part, when I put into his hand the letter which in such unrestricted terms expressed his gratitude to Dr. Harty for having been ever kind to him, and which in such solemn terms pronounced an adjuration to his Maker, that he had been enabled at all times to profit by his wise and kind advice;—when he was asked to reconcile that letter with his own statement in the witness-box, that Dr. Harty's manner had been harsh, tyrannical, and imperious, and that his only generosity towards him had consisted in giving him a few pounds, while in College, I could not help thinking, knowing what I did of the case, and having seen what I saw of it, that there was an unworthy fencing with

the truth in the ingenuity with which he attempted to represent that his statement as to Dr. Harty's manner was not intended to be a statement of Dr. Harty's conduct. As soon as I shall have gone a little further into the case, I think you will see, that whatever may be the issue of the trial, or the consequences of it to Dr. Harty, there never has been brought into a court of justice a case presented on the part of the plaintiff with such a complete and wilful suppression of leading facts and truths. This young man, after repeated failures—sometimes arising from his being sick, sometimes from his not having read the right books, or sometimes, like an able and distinguished friend of mine, having made a mistake, and taken the wrong candidate for the right one—had at length surmounted all difficulties, and was on the verge of obtaining a scholarship. It has been suggested by the counsel for the plaintiff that Stokes, after having kept at a distance from him for a considerable time previous to that period, rushed to congratulate him the moment he obtained the scholarship, somewhat after the manner attributed to patrons in a well-known passage of a preface to Doctor Johnson's Dictionary, which described a patron as a man who left a person to struggle in the waters of life while he was likely to be overwhelmed, but when he got to the shore, held out his hand to him, and encumbered him with unnecessary assistance. In the name of common sense, what is the meaning of that? Take Stokes as the emissary of Dr. Harty, or take them together, and what is the import of the insinuation? The sense of it was—and there were other lies behind this—that it was convenient to represent that Dr. Harty and Mr. Stokes forced this young man to accept a tuition in the country. But what was the truth with respect to this? Prior to the scholarship examination of 1850, and without having had any communication with either Dr. Harty or Mr. Stokes, the plaintiff had deliberately entered into a contract of his own seeking with Mr. Bowen, to become a tutor in his family as soon as the scholarship examination should have terminated. Mr. Mathew obtained the scholarship, an honourable distinction truly; but I cannot see that there was anything in it to have brought a crowd of hungry dependents about him, or to have inflamed the cupidity of either of the defendants. Mr. Stokes, on learning the result of the examination, simply advised the plaintiff to go to Dr. Harty, and the latter on being informed of the contract he had entered into, gave him this very moderate counsel—"I think it would be useful for you to go to the country for the summer, provided you find upon inquiry that Mr. Bowen's character is such as you approve of." He gave him that simple opinion without coercion, and lent him £5. Mr. Mathew went to the country and stayed there but one month. Something occurred there which it was plain that the plaintiff had no great desire to make known to them, because it must have come from the testimony of Mr. Bowen, and that gentleman had not been examined. But Mr. Mathew was sent up to Dublin, and the moment Dr. Harty saw him he said to Mr. Stokes, "Don't you see he has got a congested liver?" and immediately his head was shaved and blistered, and leeches were applied behind his ears. You, Gentlemen, have already been asked by the plaintiff's counsel whether you had ever heard of a man being sent to a lunatic asylum for liver

complaint? I shall now ask you, did you ever know of a man being blistered on the top of his head for a congested liver? Immediately before that time Mr. Mathew had been living in the house of Mr. Bowen, and it was hardly possible to overrate the value of the evidence of his condition which that gentleman could doubtless have given if he had been examined. When you have placed before you the written communications Dr. Harty received bearing upon this subject, you will be able to see whether or not he had sufficient reason for acting as he did. The plaintiff had a very comfortable situation; and when I come to observe on that part of the case by-and-by, it will be for you to say whether there was any material interruption of his comforts, arising from his having been told that he was to give instructions out of the ordinary hours. However, he left Mr. Bowen's, and he was at that time admittedly in debt to Dr. Harty, to Foley, and others, and he had about money enough in his possession then to have paid all those demands upon him. But what did he do? And now this was a point of the case at which it was of the last importance to get at the truth, the whole truth, and nothing but the truth. He went to Derry, and wrote a letter to Stokes from that town stating that he would remain there a week, in order, if possible, to obtain a tuition from some gentleman living at a place with an unpronounceable name; but, in his examination, he told them that he stayed there six weeks in pursuit of that imaginary tuition. It had been necessary to give some evidence of his goings-on; and of his numerous acquaintances in Derry two or three persons had been produced; and a very important piece of evidence had been elicited to which I pray your attention. The plaintiff has been represented to them as an accomplished and intelligent person, gentlemanlike, and remarkably steady in his demeanour, and chary of his conduct: yet, after having left the house of a beneficed clergyman, and at a time when he was seeking admission into the house of another, as the guide and instructor of young children, this shrewd young man, whose sanity it was madness to doubt, appeared—as he himself had told you—upon the boards of a low theatre, in a place called Wapping, in Derry, and performed there a musical entertainment, which had been previously undertaken by a respectable chorister named Walsh, but who relinquished the engagement through a well-founded apprehension that his appearance in such a place would cost him the situation he held in the cathedral. That educated gentleman, a Scholar of Trinity College, was found singing at a low theatre, hiring himself to a lecturing phrenologist, then going out as an amanuensis to some one else, and wasting his money. For my part, I cannot see anything to be derided in the syllogism which Dr. Harty was said to have used upon hearing of the doings of the plaintiff in Derry, viz., “that his conduct was either that of a fool or a madman; that he was known to be no fool, and therefore he must be mad.” Now, I come to the time when the transaction occurred which was the foundation of the present action. Was the conduct of Dr. Harty to be branded as tyrannical, because on hearing of what the plaintiff was doing in Derry he took steps to bring him back to his duty, and his place in College?

One of the grievances which was relied upon most strongly by the plaintiff was, that he was brought back to Dublin under false pretences ; it having been represented to him that if he remained away from College any longer he would lose the benefit of his rooms there, and perhaps of the scholarship itself. Now, would it not have been perfectly futile to tell such untruths to an acute, knowing person, such as Mr. Mathew represented himself to be. He had told them in his evidence, that at first he did not believe those statements. Might he not, if he were in the perfect possession of his faculties then, have snapped his fingers at the message of Dr. Harty, and said to himself that the Board of Trinity College had no means of ascertaining whether he was prosecuting his avocation of tutor, or singing, half seas over, at a theatre in Wapping? Did not the complaint as to the employment of false pretences, in such a case, carry with it its own refutation? But supposing that the plaintiff really laboured then under temporary aberration of mind, as the reckless and discreditable course he was pursuing of itself argued, was it not rather a laudable than a criminal act to make a representation, which it was easy to conceive might have the desired effect with a person in such a condition, to induce him to return to Dublin? But on his arrival in town, what step did Dr. Harty take? He put himself into communication with Dr. Sadleir, and solemnly notified to him that the young man was in such a state as to require restraint; and Dr. Sadleir actually furnished the means for keeping him in the asylum. There was the determined secrecy—the clandestine felonious plotting! It was true that the matter was kept secret from the servants of the house from which the young man was taken—but was that a circumstance to be converted into a mark of guilt or a ground of accusation? And remember Dr. Harty had been represented as saying to him, “It will be better for you not to expose your being here.” The step which was found necessary was taken after communication with the proper persons, keeping clear of unnecessary and injurious publicity. If it were really a wicked act, why should a person of such eminence and character unimpeachable as Dr. Sadleir have been made a *confidant* in the matter? What was the next step? Dr. Sadleir proposed that as the young man’s College allowance was now being assigned for the purpose already mentioned, his rooms should be relinquished for the use of the University during his absence; and the time he mentioned was twelve months, obviously being of opinion, that if the thing was to be done at all, it should be done handsomely, and he should be immured for a year. But Dr. Harty—whose object, according to the plaintiff’s representation, was to conceal him altogether—said that he believed a short restraint would restore him, and then he could return to his rooms without any questions being asked as to why he had given them up. Then a certificate was given by Dr. Mollan—than whom there was no man of higher and more unblemished reputation in his profession—under his hand and seal, that the young man was in a state that required coercion. The case which I mean to put forward is, that the plaintiff, who was periodically subject to what he himself had called depression, was then known to be dangerous; that he had used expressions pointing at self-destruction, and that his acts, de-

clarations, and writings established that he was at times out of his reason. Now, in order to make it essential that for a man's own safety he should be put under restraint, it was not necessary that he should be a raging maniac.

At half-past five o'clock the learned counsel broke off his address, and the case was adjourned to the following Monday morning.

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## FOURTH DAY.

*Monday, 15th December.*

At the sitting of the Court, *Mr. Martley, Q.C.*, resumed his address to the Jury. He said—Gentlemen of the Jury, I can assure you that no person could have a stronger desire to bring this protracted trial to a conclusion than myself. When the proceedings closed on Saturday evening I was about to state specifically what are the facts, which beyond all doubt the plaintiff might have brought forward, and which, beyond all question, have been wilfully suppressed. It has been stated to me that the plaintiff has been subject at intervals to a most dangerous mental malady. The circumstances have somewhat escaped from his own unwilling lips. His mental ailment is characterized by a most profound and ceaseless depression and despondency which directly tends to self destruction, and which has exhibited itself on more than one occasion. Something has been said about the plaintiff being dispirited and desponding, and reference has been made to circumstances which have produced these effects. Well, to be sure, when men are engaged with struggles with this world, they may be dispirited at times; but these struggles affect very differently the healthy, vigorous intellect, and that which is diseased. I do not know that any profession is more fertile in instances of long and painful struggles eventually successful than my own. I think it is Lord Lanesborough who is reported to have said, in reviewing the career of great lawyers, and considering the various causes of their success, that no cause of success has been so frequent as that of the lawyer commencing the world without a shilling. It is undoubted that in the career of this great man, there must have been periods of dispirited feelings; at all events, of despondency certainly not. Difficulties with such a mind as that—

“Are the spur which the clear spirit doth raise,  
To spurn delights and live laborious days.”

But when you find that despondency tends to suicide, it is disease. The first occasion upon which this happened with this unfortunate young man was in 1847. You must be aware how laboriously and actively he prepared you for what you were to hear about this matter. You must be aware of what he told you about solitude, and living a solitary life. I do not intend taking up your time, Gentlemen of the Jury, by dwelling upon the details of the period referred to in the testimony of the young men who have been examined, because it is more important

to proceed to those periods which are conversant with this action, and which, if I don't mistake, were characterized by as plain and palpable insanity, notwithstanding the body of evidence which has been produced, as ever afflicted any human being. It is not for me to enter into the detail of those things; you will hear witnesses whose profession it is to analyse and explain the characteristics of this malady. I am not speaking of wild mania or ferocious, frantic madness, but of that low, melancholy, depressed state of derangement which leads men to destroy themselves. I will not dwell particularly upon the circumstance of 1847, but it is plain he was treated for mental derangement at that time. Throughout the entire of his direct examination there never was a hint at all about this; he said he was knocked up, and was a little dispirited, a little dyspeptic. Upon his cross-examination, he admitted that the treatment he received was such as is fit for lunatics, and that his dispirited condition amounted to a despair of recovery. The plaintiff said, in his cross-examination, that he understood that the mode in which Dr. Hartly treated him was that to which he resorted in all diseases. That is a prepared answer, the point is anticipated, the answer is given, and in the next breath is admitted to be false. He said he heard it from somebody, he could not tell from whom. Now it is beyond all question that Dr. Hartly had great experience in lunacy matters; he had great experience in the treatment of lunatic patients, and great success. In 1847 the plaintiff is so treated, and he knows it. I pass on to the year 1850, I pass to the circumstances that gave rise to this action, and which are by far the most important for your consideration. I occupied a good deal of your time in cross-examining the plaintiff. I did so not with the anticipation that I would be able to establish any very flagrant contradiction in his evidence as compared with that which had been given upon the direct. I have read something of the legal history of such cases as the present, and I know what is the common experience of men who have been engaged in these investigations. I know how futile it often is to expect that the most searching examination of the ablest counsel will detect even a flaw in the story of persons who are more permanently and continuously maniac than I allege this gentleman to be. I well remember the stories told by Lord Erskine in his celebrated defence of Hadfield. I am quite aware that cunning, so far from being a proof of sanity, is very often the reverse, and therefore I did not expect to be able to induce the plaintiff to depart from his story, because I knew he was well acquainted with the points which were to be made against him, and he was very well prepared with his story. I have adverted to a leading circumstance. Remember in 1850, before he obtained scholarship, he entered into an arrangement with the Rev. Mr. Bowen to go to his house as a tutor, and that gentleman sent money to him to enable him to go down. Recollect that arrangement was solely of his own seeking. Dr. Hartly had nothing to say to it; defendant, Stokes, had nothing to say to it. Stokes called on the plaintiff after he had obtained his scholarship. He did not interfere; but he advised him to go to Dr. Hartly, and Dr. Hartly said he thought it would be a useful thing for him to go to the country, provided he ascertained the character of Mr. Bowen. The plaintiff admits that he did not



repent that he went down. Nothing could be more comfortable than his position, and no person could be more kind, considerate, or fatherly, than Mr. Bowen. He said that upon the particular day upon which he started he was not desirous to go, and he wished to postpone his journey. He was not quite prepared to go; but beyond his desire to postpone it for a day or two he had no reluctance to going; in fact there was no ground for a man in his senses to object to going there. Before he obtained scholarship he desired to get a tuition in any place in England, Ireland, or Scotland. He had no object in remaining here and no reluctance to depart. He left town, and I asked some questions as to the circumstances attendant upon his journey, for a good deal then occurred which bears upon this case. He left town with the most extraordinary, extravagant, and morbid reluctance; and I understand from medical men that one of the characteristics of the malady with which the plaintiff was afflicted is the most causeless objection to everything in which the person is engaged, and the most extravagant notion that something else would be preferable. Recollect his own account of it. There was nothing, he said, particular in it, except that he had travelled all night; and, as he was heated in the morning, some gentleman advised him to stop at some way-side hotel for the night, but that he was anxious and determined to fulfil his engagement, and, therefore, lest Mr. Bowen's servant, who was to come for him with a car, if not Mr. Bowen himself, might be disappointed, he went on. That was the feeling upon which a sane man ought to have acted; but, let me see, is it consistent with what he has done? The first thing he did when he arrived at the house of Mr. Bowen was to address a letter to Mr. Stokes:—

“Bogay House, Londonderry, Thursday, June 6th.

“MY DEAR SIR,—I have arrived here after a most horrible journey, on which I wish most heartily that I had never entered. Oh! what I would have given that I had not left Dublin, but sent Mr. Bowen the Post-office order back again. Would that you had not urged me to start yesterday evening: I knew I ought to have remained in Dublin, where I could have taken pupils, or visited them. I cannot describe the agitation and excitement that I suffered on the journey; I was almost on the point of returning to town from Balbriggan, which would to Heaven that I had done.

“It was certainly a most fatal mistake to leave town. I have now no resource left unless I were in Dublin. This day is pouring incessant and heavy rain. I am sorry to say I have committed myself deeply and completely. They seem to me very nice people here as yet; but I heartily wish that I never had known them. How is the Doctor? Has he returned yet? Remember me to Mrs. Stokes and the children.

“I am yours faithfully,

“HENRY WM. MATHEW.

“P.S.—I wish with all my heart that I had the means and opportunity of returning to Dublin to-morrow. I have condemned myself to a horrid loneliness here. My address is, ‘Rev. Edward Bowen, &c., &c.’”

Consider this letter, Gentlemen of the Jury; he had succeeded in ob-

taining a situation according to his wishes ; nobody forced him to take it ; he had looked out in various quarters for it, and had obtained it. He said, that " so far as they had gone, they were very nice people," and yet " he condemned himself to horrible loneliness." " What would I not give that I had not left Dublin : it was a fatal step !" Is that the letter of a man who was in a sound state of mind ? Is that consistent with the case which he himself has made ? What could he have done better than accept the tuition of Mr. Bowen ? You will find how consistent the language in the letter is with the manner in which he conducted himself on the journey. He says that he was in a state of agitation and excitement that he could not describe ; I believe it will be described ; and his conduct conveyed a decided impression to the gentleman whom he met that he was out of his mind. I believe that some person present thought it necessary to send a warning to Mr. Bowen. When there he writes to Mr. Bowen, who is a clergyman and a gentleman, the following is the letter :—

"20th June, 1850.

"DEAR SIR,—I have wished very much to write a few words to you, and yet I scarcely know how to address you, or how to express myself.

"Would to God that I had known you a year or two ago, and been with you then (or before) instead of now, for the first time. Very different would the case have been then. Nowhere could one have experienced such kindness or felt so much at home as at Bogay. Whom could one find so kind, and so much to be liked, as Mrs. Bowen ? Then I would have been better fitted to do justice to the undertaking, and health would not have been so likely to fail ; but the case is different now.

"I know not how to express it, but physically and mentally there seems to be a great declension ; in fact, I feel a kind of mental distraction harassing me almost incessantly. Would that I could recall the past fortnight.

"Pray forgive this.—Yours faithfully,

"HENRY WM. MATHEW.

"P.S.—I perceive how very truly you endeavour to makè me as comfortable as possible."

When you hear the evidence of Mr. Bowen you will see that, if this young man were sane, he would have been as happy as any one could have been. Mr. Bowen was intended for the medical profession, although he did not qualify. He received the plaintiff kindly, his family were prepossessed in his favour, and Mr. Bowen will swear that while he was in society he had an extraordinary command over himself. For a short time, a few days, a fortnight, matters went on pretty smoothly, when one evening he came into Mr. Bowen's room and handed him a letter ; I believe it is not dated, but Mr. Bowen says it was received upon the 28th of June.

Mr. Bowen questioned the plaintiff as to the meaning of his expressions but he could not assign any. Mr. Bowen suggested many reasons for his regret in having left Dublin, and his reply was " Oh no, it is not that, it is not that." He could not give any explanation for this extraordi-

nary production. Mr. Bowen is admitted—and you will see that the admission could hardly have been with decency withheld—he is admitted to have acted with the most extraordinary kindness; his course of conduct was uniformly soothing and encouraging to the young man, and he actually volunteered to make an increase in his salary; but the plaintiff went away without giving the slightest explanation of the meaning of his letter, and in a fortnight he returned again the same way, and handed upon the 2nd of July this note to Mr. Bowen:—

“ 2nd July, 1850.

“ REV. SIR,—There has been present a galling sense of mental torture and agony, sometimes intense in the extreme—at all times a horrible kind of retrospective illusion; yet it could not have been expected to be otherwise, nor even yet any more. Pray forgive this! but would that all extern offers had been declined, if it were even possible that any could have been more desirable; but 'tis all over, no resource. (What, a rash, blind abandonment,) ('twas a fatal throw). No peace of mind, no relief, wrong sphere, all is horror and confusion, (misled, driven, misplaced,) (chained).

“ Yours faithfully,

“ H. W. M.

“ P.S. Haunted day and night continually. Oh, how happy one could formerly have been in such a family; but how unworthy, crushed by regret, desolation and despair.”

[*The words within parentheses were crossed out.*]

After all the mass of evidence laid before you, can you, reading that letter, come to any other conclusion than that at which Mr. Bowen arrived, that the young man was an insane and dangerous lunatic? He desired him to be watched; he knew what it tended to. It is idle to suggest that a sane man, of strong and vigorous intellect, would have written such a letter; it is idle to suggest that a sane man would have written this letter at a period when the youthful energies are most vigorous, and carry a man almost through anything: is it possible that he would write such an epistle if his intellect was not deranged? You are told that this was weighing upon his mind; you are told that the teaching of two or three little boys in Latin, German, and spelling for five or seven hours each day, was depressing his mind. The plaintiff did not recover speedily; Dr. Hartly was still treating him medicinally; the first moment he saw the plaintiff in Dublin he said to Mr. Stokes, who was not a physician, and was unskilled in prognostics and diagnostics, “ Don't you see his liver is congested?” Do you imagine, Gentlemen, that this treatment was resorted to without a cause? Do you imagine the young man did not know for what he was treated? He tells you he had seen lunatics put under treatment in that way; he knew that he was under treatment at that time for mental aberration, and he was aware that the cure was incomplete. Again, he writes to Dr. Bowen:—

“ 57, Mountjoy-street, Dublin, Tuesday, July 30, 1850.

“ REV. SIR,—I had hoped to have heard from you yesterday or to-day. I am sorry for having occasioned you so much delay and incon-

venience. Perhaps you would be so kind as to write, and say what day you would wish me to leave town?

"Please give my best regards to Mrs. Bowen and your children, and believe me, Reverend Sir, yours gratefully,

"HENRY WM. MATHEW."

He leaves town with the most perfect willingness, upon both occasions. He does not pretend to say but that his own mind and inclination were in favour of his going to Derry. Upon the evening of the 7th of August, he writes thus to Mr. Stokes, "For Heaven's sake come to see me before I go. Oh! what a fool I have been. I shall certainly die or go mad." Where is the cause for all this? What is suggested for this? What explanation is given? Why was he to die or go mad? If he was not mad, where was the cause of talking of death? He was restored to and replaced in the situation which he desired. Let me recall the account he gives of Mr. Stokes. He says he is a clerk in the Education Board, a person whose means could not be affluent; he describes him as taking boarders, and says, somewhat contemptuously, that he is not a classical scholar—he is not a person who could reasonably be expected to keep pace with Mr. Mathew in accomplishments, nor one who could afford to pay a handsome salary for the tuition of his children. He gets into the family of Mr. Bowen, and what do you think his notion is with regard to Mr. Stokes? He says, in this letter—"I had intended mentioning to you about the tuition of your children. I know not what I would give now to have remained in your family." What! the defendant Stokes, the creature of Dr. Harty, and the man who put him into a lunatic asylum—is he the person an absence from whose family he so much regretted? He continues—"I cannot imagine what prevented me from proposing it in time—pray write to me as soon as you can. Oh! dear Sir, you cannot conceive how completely I am unsphered, so to speak, after leaving all in Mountjoy-street." This is the letter:—

"Bogay House, Wednesday, August 7th.

"DEAR SIR,—For Heaven's sake I entreat you to come and see me before you go. Oh! what a fool I have been; I shall certainly die or go mad. I had intended mentioning to you about the tuition of your children. You know not what I would give now that I could have remained with your family; I can't imagine what prevented me from proposing it in time. Pray write to me as soon as you can. Oh! dear Sir, you cannot conceive how completely unsphered (so to speak) I have been after leaving you all in Mountjoy-street. Little Nannie, how I delighted in being with her. Oh! I know not what I shall do. Oh! if you made your own of me it would have saved me. You cannot imagine how much I regret having lost the opportunity—might it not have been so? Pray write me a long letter. Why could I not have remained to endeavour to fill Mr. Joynt's place with you? I wish you had contemplated that; would that I could fly back with you. How intensely stupid of me not to mention it beforehand, at all

events. How much more at home I would have been with you all ; but you know not what excess of infatuation has possessed me. Pray remember me to Mrs. Stokes and the children all, Nannie, Minnie, &c., &c., also to Mr. Hamilton.

“Yours sincerely,

“H. W. MATHEW.

“It tortures me incessantly that I could not have done what I have mentioned.

“By all means come, I pray you, and see me before you return. I solemnly assure you that I would rather than any consideration that such an arrangement had been fixed upon. I ought not to have returned here, but by all means to have endeavoured to have brought it about, as I have mentioned ; I can scarcely believe that I could have omitted mentioning it in time. Why might it not have been tried?—tell me what you think—that’s what I certainly would have done if I had had my own will ; your children and I would have pulled much better together. You perhaps may wonder at this, but many reasons conspire for it. What if I had explained it all long ago ? It amazed me how any one could have thought of my returning. Don’t forget to write as soon as possible.”

The plaintiff was as free an agent as any of yourselves, Gentlemen ; all that was necessary for him to say was, that he wished to go back to College ; and who can doubt for one moment that Mr. Bowen, with all his characteristic humanity and benevolence, would have gladly relieved him from all responsibility ? Why then did the plaintiff write such a letter to Stokes ? Here is the sober, cool, well-judging young gentleman, who represents to you that one of his causes of complaint against Dr. Harty was his having placed him to live in the family of Stokes, and consigned him, harsh, tyrannical, and imperious as he was, to the care and surveillance of Stokes as his keeper. He tells Stokes that he would give the whole world if he had thought of proposing to him that he should be allowed to remain as a tutor in his family, rather than go into the family of Mr. Bowen, and become a member of his household, associating with his intellectual and accomplished family. “Little Nannie, how I delighted in being with her.” Contrast these expressions with the cautious, elaborated, splenetic, and rancorous expressions which the plaintiff used when he alluded to Stokes. Is there not some truth in what Lord Mansfield has said, that where the mind is not perfectly balanced, insane persons are remarkably crafty and cunning, but they cannot carry on a train of memory. There is a quality necessary for invention, which deserts them in the time of their need ; that quality is memory : mad people can invent, but they cannot recollect what has passed ; they can bring forward a plausible case, but when their object is to mislead, sophisticate, suppress, and misstate, they are incapable of recollecting their own inventions. “Oh that you had made your own of me !” What ! the man with whom he had been placed by a tyrannical and remorseless persecutor. He was placed in a situation in which any gentleman might have been glad to have been placed ; and I don’t hesitate to say, that any man in his sober senses

would have desired and coveted this honourable position. What was the precise amount of perdition incurred by the plaintiff in becoming a member of the family of Mr. Bowen I cannot say. Why he was so utterly lost, ruined, and undone, I really cannot imagine. You will hear from the evidence that his language in 1847 was precisely similar; you will hear that he was utterly and irretrievably lost beyond the possibility of recal and recovery. Did you ever hear such exaggerated expressions of regard as those expressed for Mr. Stokes and his family; and can you reconcile these expressions with the fact, that the man by whom they were used had his reason, had common sense, and a balanced and sound mind? What upon earth is the meaning of these expressions? Where is the circumstance that detracts from the continued eligibility of the situation which the young man held in the hospitable and accomplished family of Mr. Bowen? This gentleman did everything in his power to bear with him; he found that he still comported himself well in society, and for the purpose of contributing to his happiness, he suggested to him to bring his flute to the house. Mr. Bowen will be examined, and he will tell you that he gradually relapsed, and fell into a state of hopeless apathy and indolence, from which it was quite impossible to arouse him. I use his own words when I say, "He seemed to be utterly careless of surrounding circumstances," and there was no rousing him from his lethargy, although he was domiciled in a most respectable family, and was in the enjoyment of every comfort that he could reasonably expect. Mr. Bowen had the strongest desire to benefit the young man, but he finds that the case is hopeless, and at length it becomes inevitable that the connexion between them should cease. After the young man had left the house of Mr. Bowen, instead of going to his rooms in College, which were open to receive him, he remained in Derry for five or six weeks, mis-spending his time, disgracing his position, and making discreditable acquaintances, and Mr. Bowen, who, although compelled to remove him from his house, had not lost his interest in him, communicated the facts to Dr. Harty, and suggested to him the necessity of removing this infatuated young man. It may be represented that it was fit and proper for him to put himself out as an amanuensis to an itinerant lecturer on phrenology. It may be said that choirs and concert-rooms were suitable places for him, and that it was not derogatory for him to appear at a paltry, low theatre. However Mr. Bowen thought otherwise; he thought that such conduct was derogatory to him: First Mr. Hamilton sees him. I will not state his evidence. Then Stokes himself comes down, because Hamilton was unable to rouse him from the stupor into which he had fallen. For my part, if there were nothing more in the case, I cannot conceive that the conduct and behaviour of this young man in wasting his time and money, and involving his character in such pursuits, do not in themselves furnish evidence of at all events an extremely infirm state of mind. However Stokes came down, and he will tell you what occurred. Let me contrast the degree of credibility which, independently of circumstances, is due to the evidence of these two persons. Stokes has nothing to do with the case, and if you find a verdict of £5,000 damages and costs,

he can as easily pay the national debt as that amount. He acted in the matter solely to the best of his judgment for the safety of this young man; and the person who must bear the brunt is Dr. Harty. Putting aside the testimony of all those young men who have been produced—and to one and all of them I give credit—they never saw Mr. Mathew under the influence of any delusion; they never could have seen, heard, or dreamt of his conduct in reference to this tuition; they never could have read his frenzied letters. Putting aside all this, which is at once displaced by a single positive act of insanity, what have you to sustain this case, so introduced, and so pressed with such energy, zeal, and rancour? What have you but the evidence of Mr. Mathew? The whole case rests upon his testimony. Take an ordinary case which could be brought forward under the recent law, the policy of which some have doubted. Take an ordinary case, in which there is no question involved of mental capacity of the witness; see that it depends altogether upon a person who has the most direct, urgent, and energetic interest to misrepresent; and see whether you would consider it safe to ground a verdict upon it. Say it is the case of a man coming forward for the purpose of establishing a money demand in the way of a debt; and see whether you would be safe in resting solely and entirely upon the unsupported testimony of a man, who is to benefit by success, and to be damned by failure. Is it safe to rely upon such evidence? If that be so in such a case, how does it apply in a case where the issue is, has this young man been at all times in his sound and sober senses? Observe what a *petitio principii* there is involved to decide this case upon a single testimony. If there be infirmity of intellect, the very elaboration of the story, and the care, caution, and cunning of the party are evidence against him. And I put this case upon the single ground—ought you to rest this tremendous verdict which has been sought for at your hands upon the solitary and unsupported testimony of Mr. Mathew? Upon the other hand, what has Mr. Stokes to say to it? Dr. Harty is the only defendant. I'll tell you a very curious little circumstance in the history of this case. If this action be well founded, not only might Dr. Harty be involved in an impeachment of illegality, but Mr. Stokes, Dr. Croker, Mr. Cumming, and Dr. Mollan might one and all be included in the indictment. The action was originally brought against Dr. Harty alone. Previous to the new law a defendant could not be examined; and a writ was served upon Mr. Stokes by a person in the plaintiff's employment, who tells you that the object was to muzzle him; but now he is unmuzzled, and he can give evidence. What is the balance between these two men as to the interest which each has in this case? Mr. Mathew has everything to interest him. He has pecuniary objects to serve; his personal objects are obvious, and his motives are plain; while Mr. Stokes comes before you commended by Mr. Mathew with extravagant expressions of regard for himself, and affection for his family, and his own desire to live in his house. I shall not detail Mr. Stokes's evidence to you; he will inform you of what occurred. He will inform you of the grounds which he had for believing that the plaintiff was threatened with a relapse of insanity; and he will tell you that what has been

done was done to preserve him from the ruinous position in which his own weakness of intellect had involved him. I admit that the deprivation of the liberty of a person is not to take place without due precaution. Mr. Mathew was put into the asylum upon the certificate of two physicians, the one Dr. Harty, the other Dr. Mollan. If you look at the character of Dr. Mollan, at his standing in society, at his position in his profession—and if you consider the utter absence of all interest in the matter which he had—if his testimony is not to carry vast weight with it, it is idle to look for any certainty in this investigation. Here is what Dr. Mollan put under his hand with all the weight of his character, and the responsibility attached to it. [*The learned counsel then read the certificate of Dr. Mollan, afterwards given in evidence, or rather that portion of it, which was to the effect that he had separately visited and personally examined Henry William Mathew, and that he was of unsound mind, and a proper person to be confined.*] There is a similar certificate from Dr. Harty; but of course this is merely to be mentioned to you in order to be disbelieved and discredited. Dr. Mollan had a long conversation with him, and he took such means as satisfied his mind that he should sign the certificate. You will have an opportunity of having Dr. Mollan cross-examined, and of correcting his medical opinion if he be wrong. The question comes mainly to this—in the first place, you must be satisfied that the plaintiff was of unsound mind, and a fit person to be confined in a lunatic asylum. If he were so, those who confined him should be considered as his preservers. If the story which has been told by himself, and detailed by his counsel, that there was not the slightest imputation that he was insane, be true, then those persons are to be considered as his remorseless persecutors. This is a matter for you to determine—this is a matter upon which Mr. Bowen's evidence, so wilfully and designedly kept back, will be of the most vital importance. Let us renew the circumstance of the plaintiff's life. Was he not educated with the tenderest care for seventeen years? Were not the means of honourable independence placed at his disposal?—and can you believe that the person who had so kindly treated him would, from any bad motive, turn round and attempt to destroy his prospects in life? I have stated that this is, perhaps, the most painful case that ever came before a court of justice. I think a few words more will induce you to believe that with me. Remember the case brought forward against this old gentleman, to whom, I will say, no such act as this was ever before imputed. I have not forgotten what has dropped from Mr. Mathew upon his cross-examination. I asked him—"Did you ever threaten to bring an action against Mr. Cumming, or any of the persons in the lunatic asylum;" and he said, "I think I once mentioned the case of Mr. Hayden." I hope, for his own sake, that this is not true; I do hope that the unjust, dishonourable, and dishonest notion that the result of a former trial would influence a Dublin Jury was not the result of this young man's own mind. I trust he is telling you an untruth; I hope he never did suggest to any body the case of Mr. Hayden. It was suggested by his counsel, and thrown in not quite warrantably. I meet it now, and I say I should be satisfied to



have this case tried by the former Jury who tried the case of Mr. Hayden. It is a foul imputation that any case of this kind had been brought against Dr. Harty, which in any way reflected upon his moral character. I speak this in the hearing of the counsel who were engaged in that case. A verdict was obtained against Dr. Harty upon a former occasion; and I say it is unjust and unwarrantable to introduce the fact here.

*Mr. Whiteside.*—I deny that I stated it.

*Mr. Martley.*—There is no getting rid of the fact. It was put forward in the statement.

*Mr. Whiteside.*—I deny that I stated it. It was brought out by yourself upon the cross-examination of the witness.

*Mr. Martley.*—I leave it to the Jury. They know what occurred.

*A Juror.*—Mr. Whiteside is quite correct.

*Another Juror.*—Quite correct.

*Mr. Martley.*—If you take the statement as it appears in the newspapers you will find that Mr. Whiteside did state what I assert he stated. He said it was not the first time that such an event had happened.

CHIEF BARON.—My recollection is that such an expression was used by Mr. Whiteside.

*Mr. Whiteside.*—I must object to its being conceived that I introduced a topic which no lawyer would put forward. What I said was—this is not the first time that such cases were brought forward.

*Mr. Martley.*—I will say no more upon the subject. The statement is withdrawn.

*Mr. Whiteside.*—I withdraw nothing.

*Mr. Martley.*—I pass it by. I venture to say that this case is founded upon a speculation of what occurred in the case of Hayden, and I prognosticate that that speculation will be disappointed by you, Gentlemen of the Jury; and I say that in that case there was no moral taint upon the character of Dr. Harty, such as may be involved in the present. What has been imputed? First, flagrant oppression; secondly, a dark and mysterious inuendo of the existence of money which might be made available for this young man has been thrown out. It is said there is something romantic in this case, as if there were treasures unaccounted for, which might have been expended upon the plaintiff. This is a foul imputation. Dr. Harty is a very old man. I understand he is in a most precarious state of health. I am told that his production in a court of justice may be fatal to his life. I am not answerable for it, but he and those who are interested for him consider that anything is preferable to the imputation that has been cast upon him, and, at the risk of his life, Dr. Harty will appear before you. And am I not warranted in saying, that this is the most painful case that ever occurred? This young man has heard rumours about his parents. He has been desirous to discover them. Dr. Harty shall be produced; he shall be subjected to a pretty severe examination; he shall be obliged to admit—and the shame of a public admission and exposure is no trifling penalty to a man about to leave the world—that this young man, who is now persecuting him to the death, is his own illegitimate son (great sensation). He must bear the shame of publicly revealing that

secret, in preference to incurring the disgrace of having been a robber, of having funds concealed which belong to the plaintiff, or of the plaintiff being a person entitled on coming of age to a large property. He will have to give such evidence here now, at the close of his life, when he is so near the prospect of appearing to answer before a higher tribunal—he must tell you the whole truth. A painful and bitter penalty has been imposed upon him; and I ask you if the defendant has not expiated, or endeavoured to expiate, the offence which he has committed against society, by putting forward, in an honourable position, this young man, whom he has been instrumental in bringing into the world, and upon whom he has left such a stigma. He is not wealthy; he has a legitimate family to look to; but, during the space of sixteen years, he paid for the education of this young man upon the same footing as if he were the son of the first gentleman in the land. He found him, unfortunately, afflicted with a mental taint: he treated him, and cured him, and watched over him as a father; he found relapse upon relapse, and he judged the best course he could take was that course which, if taken in time, is often an effectual remedy. He applied that restraint; and this young man has heard from somebody that there was a case which gave him a ground for proceeding in this manner, and he comes forward accusing Dr. Harty—accusing his father of the most intolerable oppression ever practised towards anybody. He comes forward and represents him as harsh, tyrannical, and imperious; he wrote and spoke in his sane and sober senses in terms of the warmest gratitude of this man who educated him; and now he imputes to him one of the greatest crimes that could be committed by man. It is for you to say whether, with this additional circumstance that I have stated, you can believe that this was a wilful and deliberate act. If, after all you have heard, the case of this young man is true—if he was by a conspiracy between Mr. Stokes and the man who is now forced to admit himself to be his own father, and he having been at all times perfectly sane, placed in a lunatic asylum, the offence is a grievous one, and should be grievously expiated. If, upon the other hand, you turn to the evidence of Mr. Bowen—that evidence which has been carefully suppressed by the plaintiff—and if you believe this act was done for the necessary purpose of preventing the most fatal consequences from taking place—if you believe that this was not the first nor the second time the mental malady developed itself in this young man, you cannot unquestionably compensate this unfortunate gentleman, the defendant, for the effect of this investigation, you cannot make amends by finding a verdict for him; but at all events, although you may not be instrumental in taking away his life, you may at least establish his character and refrain from annihilating his fortune. The case is now in your hands. I have occupied your time too long. I again say that it is the most painful case that in my experience ever occurred, infinitely the most so that I remember; I wish I could have dismissed it, for your sakes and for my own, sooner; but I feel that there never was so fearful a statement as that which Dr. Harty has here to make—never so fearful a penalty to be incurred or avoided; and I have been obliged to enter into those particulars to my

own dissatisfaction. I leave the case in your hands. I have not the slightest doubt that you are men incapable of being misled—at least for any length of time—by external appearances. I am sure you are capable of weighing the probabilities of things. I am certain that without powerful and complete corroboration of points of evidence, you will not fix so heavy a penalty upon an old man to whom no motive can be imputed. I am confident that whoever it was that suggested the case of Hayden to the mind of the plaintiff, you are too honest and upright to be swayed by a consideration so utterly at variance with the law. I am satisfied that in holding the scales of justice between the parties, you will hold it with a firm and impartial hand. I am satisfied that, whether you come to a conclusion, teaching this young man that his imputations, now for the first time brought forward, inconsistent with all his unbiassed declarations, have not any weight with you—or whether you come to the conclusion that this was a causeless act of tyranny and oppression upon the part of the defendant, you will be able to give an answer to your own consciences, to which alone you have to look. To one party in this case a verdict against him would be productive of great disappointment; but to the other, the result of your deliberations, if unfavourable to him, must be utter destruction. I have done. I wish I could have dismissed this case sooner; and I trust in God you will be able to give a just and honest verdict, and one consistent with the law and the facts.

The extraordinary revelation of counsel, the romantic disclosure that the plaintiff was the son of the defendant, produced an effect that has been seldom equalled in a court of justice; and in the midst of this excitement a portion of one of the crowded galleries gave way, and a man who was beneath it was greatly injured. Some time elapsed before order was restored.

*The Rev. Edward Bowen*, examined by *Mr. George, Q. C.*—I am a clergyman of the Established Church, and live about five Irish miles from Derry; I was living there in June and July, 1850; there were Mrs. Bowen, my two sons, and a daughter at home then; I applied by advertisement for a tutor; I wanted the tutor for the two younger sons, which were fifteen and fourteen, and for a daughter, aged twelve years; I know the plaintiff; he answered the advertisement; I advertised through a Mr. Miller, who kindly from my distance from Dublin undertook the matter for me; Mr. Miller engaged the plaintiff, who came to me in June, 1850; he was to have £40 a year and his washing, and to reside in my family; he came on the 6th of June; I sent to the train for him; he was delayed in consequence of the scholarship, and fixed that day himself; when he arrived he commenced his duties the next day; on that occasion he remained a few days more than a month; he went back the 9th of July, 1850. [*Letter dated 3d July, 1850, produced.*] I wrote that letter to Dr. Harty; the date is altered, I think.

*The following is the letter from Mr. Bowen to Dr. Harty:—*

“Bogay House, Londonderry, July 3, 1850.

“SIR,—I think it right and necessary to inform you immediately, and enclose you copies of two letters given me (the last yesterday) by

Mr. Henry Wm. Mathew, who came to me from Dublin on the 6th of last June, to be tutor to two of my sons. He tells me you have been his guardian and friend from his childhood. I therefore confide to you (unknown to Mr. H. W. Mathew) the circumstances of his state of mind since he has been resident here, which, I fear, is very wretched and desponding. On his arrival in Derry by the mail train and coach from Dublin, I had my car and servant waiting for him at the terminus to bring him here, and a friend of mine (who was his companion from Dublin in the mail coach), seeing my servant waiting, and who asked him if a Mr. Mathew had come in the train, he told him he had, and desired him to tell me his conduct was so extraordinary during the journey that he thought he was ill, and advised him to stop on the road, but that he declined doing, and my friend sent me word to watch him closely, as his mind seemed disturbed. On his arrival here Mrs. Bowen and I paid him every attention and civility we could, which he seems sensible of, and he entered on his duties the following day, and everything seemed going on perfectly to his and our satisfaction, until one evening, when he delivered me the letter I have sent you a copy of, when I had a long conversation with him, and he expressed himself in a very confused and desponding manner, like a person with a disturbed mind. I could not get him to explain the cause of his trouble, and thinking it might be the wish of an increase of stipend, I said I would give him £45 a year instead of £40, as agreed upon. He thanked me, and we separated for the night. He seemed to think, as far as I could find out, he had done wrong in leaving Dublin, but he would not disclose the reasons. He then went on seemingly comfortably, and joined the family circle at all times, accompanying my daughters in singing, and was apparently happy; and finding he had an old friend residing in the neighbourhood, a son of Dr. Baillie, with whom he had been at school, I invited him here that they might meet, which they did, apparently with pleasure, and all went on well until last night, when he presented me with the second letter, and I had again a long conversation with him much in the same style as the former, but his mind seemed more disturbed and distracted than before, as you will perceive by the copy of his last letter. He has appeared so distracted at times and desponding, I have thought it better for him to return to Dublin, which he appears so much regretting having left; and accordingly, a place has been taken for him on Friday, the 5th, in the Dublin mail, so that he will arrive in Dublin on Saturday morning, the 6th, when I hope and trust you will see him, and be able to judge what is best for him to do. I must add, that his general conduct since he has been here has been modest, gentlemanly, and all we could wish when in society, and we have liked him much, and regret his being obliged to leave us; but this distraction and despondency of mind has shown itself so strongly, that it is necessary for him to return to Dublin and his friends, without loss of time, both for his good as well as our own comfort and ease. He appears to have great command of himself in society, and is then calm, collected, and natural.

“ I am, Sir, your obedient Servant,

“ EDWARD BOWEN.

“ *Dr. Harty.*”

*Mr. George.*—In that letter, did you enclose a copy of a letter from Mr. Mathew to you?

*Mr. Whiteside* objected to this evidence.

*To Mr. George.*—I got two letters from Mr. Mathew. [*Letters produced.*] The first was the 20th of June, and the other the 2nd of July; I sent copies of those letters to Dr. Harty; the plaintiff proceeded with the education when he came down to my house; I lived seven miles from the Post-office, and had to write letters over night; the hours for instruction were from half-past seven to nine, A. M., then from ten to one, and then from four to a quarter to six; during the latter period, Mr. Mathew had only to sit in the room while they were getting their lessons; he did as he pleased in the evenings, and his conduct was gentlemanly and unassuming; he could remain in the drawing-room, or in his own room, if he liked, in the evenings; the routine of business I have stated continued up to the time I received the first letter, dated 20th of June, 1850. [*Letter read.*] The plaintiff had always been treated with kindness, and never complained of his duties being arduous; I had not observed anything particular in his manner up to the receipt of that letter; he handed this to me in the library, and I read it, but observed nothing particular about him; I asked him to sit down while I read it, and then asked him if there was anything he regretted in having come down to me; he fixed his eyes on me when I was reading the letter—(laughter)—when I asked him the reason of his giving me the letter, and he made no answer; I said, “Perhaps you may think you have acted unwisely in leaving Dublin, on account of the stipend you receive,” and he replied, “Oh! no, it is not that;” he said nothing more, but repeated that observation; I then advised him to go to bed, and that we would talk the matter over in the morning; I tried to soothe him as well as I could; he made a motion of his lips, but said nothing more; he looked rather steadfastly at me; I agreed to increase his stipend, and did so; between the first and second letter he continued in the discharge of his duties as tutor, and during that time there was no change made in the course of the studies; my time is very much occupied, and I did not attend much to those matters; on the 2nd of July, 1850, he handed me the second letter, and appeared to be troubled at the time. [*Letter read.*] The plaintiff gave this to me in the library when I was alone; I did not observe anything peculiar about him that evening; he was in the drawing-room as usual, but when he brought this letter he acted precisely as he did when the first was handed to me; he appeared a little excited; I think I did as I did before; I asked him if he had any reason for giving me the letter, and tried to soothe his mind and get him to go to bed; we had some conversation, and he thanked me for it; I told him I thought he ought to go to his friend and guardian Dr. Harty, whom I knew from my former correspondence with him, until he recovered; he did not speak at all to me until he thanked me when leaving the room; the plaintiff had previously spoken to me about Dr. Harty, or I should not have known that gentleman; he told me Dr. Harty brought him up, and I thought he was his guardian; I called him (Dr. Harty) the plaintiff’s guardian and he answered me as such; the plaintiff told me Dr. Harty had put him to

school and brought him up; I invited a school-fellow, a son of Dr. Baillie's, who lived in the neighbourhood, to dine with us to meet him; I wrote to Dr. Harty that night; I considered it advisable to write from what occurred; Mr. Mathew went away in a few days; I told him it was necessary for his good and our comfort; I said that by taking it in time that bodily disease, which I had no doubt was acting on his mind, might be removed; I said it was necessary that no time should be lost, and that therefore I would write to Dr. Harty, and would send him to Dublin the day after my letter reached; I was bred to the medical profession; Mr. Mathew left me then, and returned in about a month; he went to Dublin on the 9th of July, and came back August 5th; I went with him to the train, and he appeared a good deal affected; he begged that he might remain, but I said I would not allow it—that I considered I was his guardian while with me, and that it was for his good to go to Dublin; I said that by medical aid he would recover, and that if he did I would have no objection to take him back; he cried at parting. [*Two letters, dated July, 1850, produced.*] I read those two letters from plaintiff; when he came back he resumed his duties as tutor; he came down in better health; he went up lusty, and came back reduced in appearance; I told him not to write any more letters, but that I would be glad to converse with him whenever he pleased; he was received in the family as before, and enjoyed himself in the evenings with my family with music; he brought his flute and played it; he remained with me until December; I observed a change in his manner the second time he was with me; I recommended him to read Scott's novels, and he did so for some time, but would then sit with the book before him; he appeared not to be able to command his mind; he did not get up in the morning as usual (laughter), and I got up and sat in the school-room to set him an example; he was not punctual, and did not give his mind to his duties; I spoke to him of his want of punctuality, and not being down at appointed hours; he was more indolent and not active; I endeavoured to induce him to take exercise, but he would not; he appeared to be entirely occupied with his own thoughts, and did not like music as much as formerly.

*To the COURT.*—I did not observe any change in his mind in his course of instruction to the children, for I was not present when he was teaching them; I observed a dulness in his society which I never observed before.

*To Mr. George.*—I never saw him take physic, but Mrs. Bowen did (laughter); on the 30th of October I wrote again to Dr. Harty.

*Mr. Whiteside* objected to the admission of such evidence, or the letter of any created being to the defendant Harty, to make out the plaintiff a madman. It was not admissible in any way—in mitigation of damages or otherwise.

*Mr. George* contended it was admissible, and referred to *Elrington v. Burrows* (4th Car. & Payne) as an authority.

His LORDSHIP ruled in favour of the defendant, and two letters from witness to Dr. Harty were read accordingly.

*To Mr. George.*—I wrote those letters to Dr. Harty; Mr. Stokes came down with Mr. Mathew on the second occasion, and spent one or

two days; I don't recollect if Mr. Stokes said anything about the plaintiff's habits, &c., in the plaintiff's presence; Mr. Mathew left me on the 6th of December, 1850, and said he was going to Derry; my servant brought him there; I did not see him after that, or while he was in Derry; I had no communication with him after that, or personal knowledge of him; he left me and my family with great regret, and said he hoped he would be able to command himself to act as he did when he was first with me; Mr. Mathew told me how he had been treated for his illness by Dr. Harty, but I don't recollect he said anything about his kindness or harshness.

*Cross-examined by Mr. Whiteside.*—I wanted a tutor; I have two parishes, and I had a good deal to do, and could not undertake to teach my sons; I got several letters from Mr. Mathew which have not been produced. Dr. Harty did not ask to see my correspondence with Mr. Mathew; I wrote to him congratulating him on getting the scholarship; I knew he got it, but did not know he was working all day for his bread, and all night, when I was in bed, for the scholarship (laughter); he taught all he was bound to teach, or endeavoured to do so; I was sometimes present for ten minutes when he was teaching; I occasionally went in and out; I don't know, of my own knowledge, but Mrs. Bowen does (laughter); except in the letter he gave me, he did not say his health did not enable him to give so much time and attention to the children as I wished; the plaintiff told me Dr. Harty was his friend, and I called him "guardian;" while with me he was most modest, unassuming, and gentlemanlike; I have had many tutors, and was perfectly satisfied with him; in public he had great command over himself; when he gave me the first letter I regretted that he wished to go; as I thought he did not choose to explain himself to me, I wrote to him to Dublin, and wished him to return to me, and bring his flute (laughter); he came back after that letter, and stayed for four or five months; during all that time he dined at my table, and conducted himself as a gentleman; there was an apathy in his manner on the second occasion.

*Mr. Whiteside.*—Then you remarked two things—his appetite and his apathy (laughter).

*Cross-examination continued.*—At the latter part of his residence with me he was more absorbed in his manner; there was nothing but a good appetite to call my attention to at breakfast; I observed no particular change at dinner, and I did not see him at tea, for I did not take any (laughter); he played the flute; in August or September I have seen him play chess; I never played with him; I won't swear he did not read Scott's novels, nor would I like to be examined along with him; I saw him sitting opposite a back window, and not reading; the book was pretty much open in the same place; I did not see him turn over the pages; I remember on one occasion remarking to Mr. Mathew that he was ten minutes late; I believe he had no watch, but there was one in the school-room; I objected to his want of punctuality. [*Letter produced.*] I wrote that letter of recommendation, and gave it to him; there is a son of mine in Court, who was a pupil of Mr. Mathew's; I was ill, and he came up with me; the plaintiff was with me for five months, and his conduct was moral and gentlemanlike; his literary

qualifications were of a high order, and such as eminently to qualify him to act as a tutor.

*To a Juror.*—Dr. Miller was my family physician, but he never attended Mr. Mathew.

*To the Court.*—I thought I ought to send him him back to Dr. Harty who cured him before; Mr. Mathew had great command of himself, but when I got the last letter, I did not sleep all night (laughter); and thought it better to send him back to Dublin.

*To Mr. Whiteside.*—I can't say if Dr. Miller saw the plaintiff at my house, but he may have met him.

*Mr. Robert Stokes examined by Mr. Walsh.*—I know the plaintiff, and am one of the defendants; my acquaintance with plaintiff commenced in 1842, when he was introduced to me by Dr. Harty; he lived at my house for about a year and a half; that was after he entered College, and after he left me he went to live in College; I often conversed with him about Dr. Harty; he then expressed himself grateful about Dr. Harty; he was always unwilling to do anything without Dr. Harty's direction; Dr. Harty was his only and his best friend, he said, and that he would do nothing without his directions; after he went to live in College he visited at my house, and I called on him constantly, and he told me Dr. Harty frequently called on him; this was in 1844, '45 and '46; Dr. Harty often met him at my house; Dr. Harty spoke to him about his studies in my house; he would ask him if he got up early and took exercise; Dr. Harty frequently complained to him in my presence of his not letting him in in College as often as he called; Dr. Harty was in the habit of going on Sunday morning; he used to go to the College chapel, and when he called on those occasions at Mr. Mathew's rooms he complained of not getting in; the plaintiff made no defence when Dr. Harty said this; he never complained of Dr. Harty's not calling; Dr. Harty paid for him at my house at the rate of £40 a year, which included washing, &c.; he next came to my house in the year 1847; Dr. Harty called on me, and in consequence of something that passed between us, the plaintiff came to me; he came from his rooms in College, and remained about six months; he was not then in good health; he was in a low depressed state of mind, crying constantly, and expressing himself in such a wild manner that we did not know what to do with him; he used to exclaim, "All is lost!" and other such expressions, and when asked by me what was the matter, he would reply, "That—that—don't you know that;" he continued so for days and weeks, in fact, for two months; he was in the habit of standing in the same position for a length of time, and he would not stir for any one, to walk, or read, or take any kind of amusement; he frequently wrung his hands, using such expressions as I have stated; Dr. Harty ordered his head to be shaved, and blister ointment to be applied, and it was done; his head was shaved two or three times, and the blistering was kept open for a long time; he then spoke of the easiest mode of death; he constantly asked every one who came near him what was the easiest way to die, and which way they would prefer; he said he would like drowning, and when remonstrated with he would laugh; he quoted Shakspeare, from Hamlet's soliloquy upon death, and



would say "it would be done in a moment;" I am not in the habit of treating lunatics, but I have had persons that were not bad enough for lunatic asylums, or well enough to live in their own families; during the period he was with me in 1847, his conduct was decidedly that of an insane man; he improved under the treatment he received; when he went into the garden to exercise, he would take up a single blade of grass, and carry it round the garden as if it were a stone weight, and he would stand where he would bring it until coaxed to move about again; all this time he was full of regret for the past; in some time he recovered from this illness, and while ill every means was taken to prevent any one becoming acquainted with his malady; after he left me in 1847 he went to the County Wicklow, and returned to live in College before 1849, but I can't tell the date; I called on him then, and had letters from him wherever he was; I know that Dr. Harty called on him; I remember Mr. Mathew going to Mr. Bowen; I went to his rooms to him the night before he started; I was packing up his trunk for him; I found his boy had one of his keys; there were two keys then, and I locked one up in the trunk, and another was folded up, and enclosed to Dr. Harty; this was done by his desire; the time was approaching for starting, and he had made preparation; I left him at the railway, but first went to the coach-office to take his seat for so much of the journey as he was to go by coach; he did not appear cheerful—quite the contrary; I read a letter from him the day after he arrived in Derry, dated 6th June. [*Letter produced.*] That is the letter. [*Witness also produced a letter of July 4th, 1850.*] I next saw Mathew at the railway on the morning of his arrival in Dublin; I remained at a distance to see him coming out of the coach; when he got out he remained stationary for a few minutes until I came up to him; he appeared gloomy, and said it was great infatuation coming up, and complained bitterly of having left Mr. Bowen's; he expressed his regret at having come to town; he came home to my house that evening; from the time he left College to go to Mr. Bowen's until he came back I was in his rooms with Dr. Harty, but took nothing out of it but his bedding for his own use, and by Dr. Harty's directions; the bedding was brought to my house.

*To the Court.*—I took the key to Dr. Harty as Mr. Mathew requested, and then kept it at Dr. Harty's request; when the plaintiff came back from Mr. Bowen's the first time he was again affected in his mind, and was continually running about the house, and running after Mrs. Stokes (laughter); Dr. Harty saw him on the day of his arrival, but I was not present; the plaintiff was then treated medically; his head was shaved and blistered, and leeches were put behind his ears; he was then under treatment for a month, and his mind improved; except on those occasions I never knew him to be affected in his mind; his general manner was cheerful, but I always observed something peculiar in his manner; on one occasion, in 1842, when he was at my house, he cleared the room of chairs, and tables and ran up and down the room.

*To the Court.*—He was then fifteen or sixteen years of age; the

reason he assigned for this was, that he heard of a man who made a great deal of money by running up the wall. (Laughter.)

*To Mr. Walsh.*—Another habit he had was coming down stairs to warm his toes before he dressed himself (laughter). I saw him in January, 1851, in Derry; I went with him to Mr. Bowen's on the second occasion, and got a letter from him before I left Derry; I was then at a Mr. Hamilton's; I did not call on him then, but I saw him in the morning when he was getting up; after some conversation I asked him would he come to the hotel with me; he wanted to breakfast there, but I declined; it was a double-bedded room, and there was a young man smoking; I asked him to come to Dublin, and showed him a letter from Dr. Harty, which was written to induce him to come; he came, but expressed great regret at leaving; I did not tell Mr. Mathew that I came on business of my own; we came to Dublin by train and coach; on the journey he was rather quiet, and was not remarkably silent or otherwise; he came to my house on his arrival in Dublin; the inmates of my house then were Dr. Joynt, Mr. Hamilton, a lady, and my own family; the plaintiff was continually regretting that he had left Mr. Bowen's, and was in a more excited state than I ever knew him; he spoke of suicide, and quoted Shakspeare again, alluding to the easiest mode of death; he would ask me what death I would wish to die, and said he preferred drowning; he on that occasion was very much excited, and went about the house; he would go down to the kitchen and laugh immoderately; we have taken a book from his hand to see if there was anything in it to induce laughter, and found that there was not; Dr. Harty saw him the day of his return; I recollect the occasion of his going to Swift's; I knew Dr. Harty was arranging for his removal; a note came from Dr. Harty to have all ready, and about half-past eight in the evening Dr. Harty called, and we brought him there; we did all we could to conceal the state of his mind.

*To the Jury.*—Mr. Mathew was not, I believe, aware he was a son of Dr. Harty's, and I was also quite ignorant of it.

*Cross-examined by Mr. Whiteside.*—The plaintiff very often indulged in regrets for the past; I have indulged in regrets for the past, but not as he did (laughter); if I had my life to live over again, I would be more cautious; I have written letters, and have written on this business; I know Mr. Foley; I saw him to-day; I don't know that he was subpœnaed, but I suppose he is to be examined; I know Dr. Harty since 1833; he was acquainted with my family; I lived at Drumcondra, and afterwards in Dorset-street; Dr. Harty sent patients to me; they were not mad, but required to be looked after; I knew a Mrs. Jones; she was taken by a party when she went out to take exercise; she was taken by virtue of a *habeas corpus*; I can't tell if she is alive; I did not try to make her a lunatic; her brother was anxious to have her confined; she was placed under my charge by her brother and husband; I went to the police-office because I thought she was illegally taken by the writ of the Queen's Bench; I had no license for that house; it is not necessary if you have but one lunatic under

your care ; I was examined in that case as to the state of her mind ; there was a scene in the street the day she escaped ; I gave evidence as to her insanity, and the Jury did not, of course, believe it (laughter) ; I first knew the plaintiff in 1842, and he then ran up and down the stairs, and up a wall, but did not run along the ceiling ; he swung out of doors, but did not hang himself ; Dr. Harty complained that he did not let him in, and he often kept me out (laughter) ; he was able all this time to get on with the books ; my stomach is seldom out of order (laughter) ; I am in the National Board of Education Office, and inspect the inspector's reports ; the salary is not a good one, it is but £160 a year. [*Letter produced.*] The plaintiff gave the money mentioned in this note ; I was often away when Mr. Mathew was at my house ; he then shaved, and he had a razor and shaved himself ; he went in and out as he liked when convalescent, and visited ; I saw a good deal of the defendant from 1845 to 1847 ; he came to my house, and I called on him ; I saw him in College between May and June, 1850 ; I am sure I was in his rooms on that occasion ; I had friends who would come in of an evening, and the plaintiff asked every one he saw as to the easiest mode of death ; he only asked the question in the garden (laughter) ; he said it to a nurse ; she is not here ; I don't think I swore I put the strait waistcoat on Mrs. Jones ; I am not fond of weeding ; he was delicate at the time I asked him to weed in the garden ; we were in the garden before and after breakfast ; I have heard him speak of death before dinner, and sat down with him afterwards and trusted him with a knife (laughter) ; I would not come down the stairs to warm my toes before breakfast, and I thought it was a peculiarity (great laughter) ; I saw the plaintiff take pills ; I don't know that he passed an examination when at my house ; I went over expressly to see what success he had at his examination, and I went to see about it ; he was incapable of packing his trunk ; he would, I think, have known the difference between a breeches and a coat—(laughter)—but I won't swear he did (great laughter) ; I helped to pack up the clothes of this gentleman to go out as tutor—his gentleman that I could not say knew the difference between a breeches and a coat ; I was never in his room when he was away, but when Dr. Harty came with me ; I was twice there for books, and once for the bed ; I was three or four times altogether there during his absence ; the first time I went with Dr. Harty, and afterwards by myself ; I found letters in the plaintiff's box which I gave to Dr. Harty ; I never opened one of them ; Dr. Harty showed me the letter from Foley ; Dr. Harty gave me the letter when Mr. Mathew was coming up, to give to him ; I had them a few days ; I think I gave them to him in my own house ; this letter about Foley was given to him when in that state of excitement ; I told him Foley was looking after him, and that was true ; it appears so by Foley's letter ; the story was a little untrue, but not very untrue (laughter).

*To the COURT.*—It was a stratagem to keep him quiet.

*To Mr. Whiteside.*—I wait for my luggage when I travel, and so did the plaintiff when he arrived in Dublin ; his apathy did not even extend to his appetite (laughter) ; my own family and Dr. Joynt were in my house on his arrival, and the Doctor saw the plaintiff every evening ; Dr.

Joynt was a qualified surgeon, living in my house at this time ; he dined with him on Friday and Saturday, and went to the Botanic Gardens with him ; the plaintiff went to church on the Sunday before he went to Swift's. [*Letter produced.*] I wrote that letter to the plaintiff to try and get him a tuition, and after that I saw him in Derry ; I can't tell if the letter I showed him from Dr. Hartly was true or false, but I consider it was a stratagem ; the plaintiff expressed surprise, but came off with me, and was quiet on the road ; he quoted *Hamlet* in the house at all hours in the day, when he came home in January ; there was no garden to my house then ; I was out from ten to four daily ; he was in the habit of repeating these lines about suicide constantly, for a few days before he was put into Swift's ; I can't say I heard him say these words on Friday or Saturday, but he used them after he came from Derry ; I am very little at home on a Sunday ; the plaintiff was composed and quiet when in the car going to Swift's ; I told him no lie, but there was a stratagem used ; I called to see him in the asylum ; I sent him "*Brinkley's Astronomy*" and the other works, at his own request ; he was then there about ten days ; he was always quiet when I saw him ; I think the treatment agreed with him ; getting up in the morning was proper treatment for him ; one of the people at Swift's told me he was not a fit person to be in a madhouse. I paid Foley £4 9s. that Dr. Hartly gave me in March ; I did not say it was better for him to take 10s. in the pound, as it was doubtful if he would ever see Mr. Mathew again, but I said something like it, and got a receipt for the full amount ; I never told Foley he would never see Mathew alive again, but I said he was very delicate ; I did not say he was in Swift's ; I don't think the object of paying Foley was to prevent his looking after Mathew ; I called on Foley before the trial, and asked him his opinion ; I did not ask him could he or would he get witnesses to prove he was mad ; Foley told me he did not think he was in his right mind.

*A Juror.*—Yet he gave him credit. (Laughter.)

*To Mr. Whiteside.*—I never asked Foley to get people to swear Mathew was mad ; I took the benefit of the Insolvent Act lately ; I wrote no account charging "the lunatic" 1s. 6d. for taking him to Swift's ; coming and going to Derry was £3 17s. 1d., but I got £5, out of which I paid for a pair of shoes for him (laughter) ; I signed a document to get the plaintiff into Swift's.

*To Mr. Walsh.*—In 1847 the plaintiff had a razor and shaved himself, but I remained while he was shaving, and took it away.

*To the Jury.*—He had it going and coming from Derry, and when Dr. Mollan visited him ; I believe he took it to Swift's. (Great laughter.)

*Mr. George Franks* examined by *Mr. George.*—I am an attorney, and reside in Derry ; I remember travelling down to Derry with the plaintiff last year ; when he got into the train a gentleman also got in and endeavoured to quiet him ; as soon as the gentleman went Mr. Mathew put out his head and said something silly, but I can't recollect what it was (laughter) ; the carriage started, and he appeared to be greatly distressed, sighing and muttering ; I heard Mr. Mathew say, "I wish I had not come ;" I asked him was he well, and he said he had been working very hard in College ; I collected from him where

he was going, and on the way suggested that he should stop and return to Dublin, being unfit for so long a journey; I know Mr. Bowen, and knew from himself that he was going there; I observed a fidgettiness and uneasiness about him until we got to Castleblaney; it made me a little nervous myself, and I was in hopes he would go to sleep; at Dundalk I got out of the carriage, and having heard a crash I found the plaintiff in custody for breaking a pane of glass; he settled the matter whatever it was, and got into the carriage again; after some time an officer came in, and, seeing the state he was in, spoke reprehending his (plaintiff's) friend for allowing him to travel in the state in which he was; he spoke of his small finances, when this gentleman proposed remaining on the road, upon which we agreed to pay his expenses back to Dublin between us, if he would stop and return next day; this gentleman told him he would lose his situation if he went to Mr. Bowen's in the state in which he was; however, he persisted in going; I made a communication to Mr. Bowen's servant.

*Cross-examined by Mr. Napier.*—I have heard persons complaining of the journey to Dublin, but I am accustomed to it; I know Mr. Walsh the organist in Derry; he is very respectable; I was at the theatre myself (laughter).

*To the Court.*—There is no other theatre in Derry.

The Court at half-past six adjourned to the following morning at half-past ten.

## FIFTH DAY.

*Tuesday, 16th December.*

The evidence for the defendant was resumed at the sitting of the Court.

*Michael Hamilton* examined by *Mr. George, Q.C.*—I am acquainted with Mr. Mathew; I first met him in 1848; I certainly met him in August, 1849; I was in Derry in January, 1851; I received a communication from Mr. Stokes, and I called upon Mr. Mathew at Mrs. M'Candlish's lodgings; as far as I could judge the lodgings were not comfortable.

*Mr. Whiteside.*—It is very difficult to get good lodgings.

*Mr. George, Q.C.*—These interruptions are very inconvenient.

CHIEF BARON.—Yes; and they are very unpleasant to the Court, counsel, and the jury.

*Mr. Whiteside, Q.C.*—At the same time, when people are charged with insanity, it is very hard to have questions put about comfortable lodgings.

*Witness.*—I found him in bed; it was about one o'clock in the day; I said he did not look well, and I asked him was he well; he was flushed—his manner was disturbed; I think the first word I said to him was, "I am sorry to find you so poorly;" he asked me if I had heard of my namesake in Derry, Mr. Hamilton, the phrenologist, and he also

asked me to come and take lessons ; I said I did not like to do so : I don't think he asked me to remain, but I think he asked me to get into bed, and when we got up we could go together to the phrenologist ; he moved himself in the bed ; the clothes were particularly dirty ; I am not accustomed to lie in such dirty blankets. (A laugh.) I am not able exactly to recollect the words, but if I am allowed to state my reasons——

*Mr. Whiteside.*—No, you are not.

*Witness.*—He decidedly said if I got into bed we could afterwards go together to the phrenologist. That is my impression.

*Mr. Whiteside.*—My Lord, that is not evidence. The impressions left upon this gentleman's clear intellect are not evidence.

*Witness.*—I believe he asked me to get in at once.

CHIEF BARON.—You are not to give an opinion, but to state your recollection.

*Witness.*—He moved himself in such a way as to make me believe that it was at that time he wanted me to get into bed ; he did not speak of Dr. Hartly ; I asked him would he not have been better in Mr. Bowen's ; he said, most decidedly, that Mr. Bowen could not converse with him ; I asked him to come to Dublin ; he said he would not ; he was making money in Derry, and would be better employed there than in Dublin ; I asked him how that could be, and he told me he was giving and taking lessons in phrenology ; he asked me how I knew he was there, and I told him it was from a letter which I had from Mr. Stokes ; he asked me how far he lived from Derry ; he seemed to think it was a great distance from town, and that I must be fatigued ; he wished that I would see him again ; I did not call again ; I did not see him again till I saw him in Dublin ; I saw Mr. Mathew in Dublin upon the 30th of January, at the house of Mr. Stokes ; I saw him every morning ; I was in the habit of visiting at Stokes's ; I was not much in the society of Mr. Mathew ; in the mornings he was most anxious to get into the room where I was ; Dr. Joint was there : he seemed to be very much disturbed and annoyed that he did not get a bath—a sponge bath.

CHIEF BARON.—He seemed to be annoyed at not getting a bath—is that so ?

*Mr. Whiteside.*—A sponge bath, my Lord. (Laughter.)

*Witness.*—He came down from the upper part of the house in which he had slept, attired in a frock coat, which only extended as far as his knees, and his legs were bare ; he came into the room in the evening, and appeared to be anxious that I should listen to subjects about the Vice-Chancellor's prize, which I really did not understand (a laugh), and I wished to be left alone ; I was in bed at the time ; one of the family remained above to see that he was in bed ; he used to come down undressed, and come into my room, and Dr. Joynt suggested to me to put him out and bolt the door ; he had on his shirt and trowsers ; this occurred more than once or twice ; his general manner was very much excited, tossed, and disturbed ; I thought he was very miserable, or something ; his manner in Dublin seemed to be more excited than it was in Derry ; after plaintiff left Swift's Hospital he called upon me at 15, Upper Sackville-street ; Mr. Mathew told me he wished to speak to me ; I came out, and he spoke about having got a number of the Fellows

of College to sign a certificate about his sanity ; he asked me to put my name to it ; I said that I could not do so ; I don't recollect his producing the paper ; he asked me why I refused to sign it ; I don't think I said more to him at that time than that I could not conscientiously sign it ; upon another occasion he came with Mr. Hall ; he asked me then to sign the document ; Mr. Hall, when I refused, said, " I should give a reason ;" I hesitated ; he said you had better sign it ; I told Mr. Hall that Mr. Mathew asked me to get into his bed in Derry, and as I thought it a remarkable fact I could not sign any document that would assert that he was sane ; " Oh," said Hall, " Mathew, you never told me that ;" Mathew replied, " that it was false, as he had never done so ;" I again asserted that it was the case.

*Cross-examined by Mr. Whiteside, Q.C.*—Are you a mathematician ?

*Witness.*—I am sorry to say I am not.

*Mr. Whiteside.*—Did you hear Mr. Mathew's examination ?

*Witness.*—Yes, I did.

*Mr. Whiteside.*—Whether do you think his manner or yours most indicative of a rational man ?

*Witness.*—Mr. Mathew exhibited a great deal of talent which I do not possess. I leave my manner to the Jury.

*Mr. Whiteside.*—So we will.

*Witness.*—I have not read very profoundly the works which have been written upon the human mind ; I have read a little ; the plaintiff was certainly very " ill looking." (Laughter.)

*Mr. Whiteside.*—That will do.

*Witness.*—I don't mean ugly.

*Mr. Whiteside.*—When you are ill looking do you stay in bed or do you get up ? (Laughter.) No answer.

*Mr. Whiteside.*—I think your evidence is, " I imagine, I suppose, I am almost sure, that he wanted me to get into bed ?"

*Witness.*—I believe I was very doubtful about it. (Laughter). I was a good while in Stokes's house.

*Mr. Whiteside.*—Did you hear him describe the middling kind of people when he was in the house ?

*Witness.*—Yes.

*Mr. Whiteside.*—How far from Derry do you live ?

*Witness.*—About six miles and a half.

*Mr. Whiteside.*—Are you sure it is not six miles and three quarters ? Was it not after he asked you to get into the bed that he asked you to go to Hamilton's with him ?

*Witness.*—No, he asked me to lie down with him in the bed.

*Mr. Whiteside.*—Are you sure of that—cock sure of it ?

*Witness.*—I am.

*Mr. Whiteside.*—Are you sure of anything ? Are you quite sure that you are sitting upon a stool there ? You were very fidgetty a short time ago ; what were you looking for ?

*Witness.*—A cushion, my Lord, Mr. Whiteside I mean. (A laugh.) I told him I had no taste for phrenology ; he was greatly excited ; he appeared in a very wild state, so far as my poor mind could judge.

*Mr. Whiteside.*—That is an admirable observation. Don't you think yourself an inimitable critic upon other men's understandings?

*Witness.*—I can't say; I came here to tell the truth; I dined with Mr. Mathew; I don't recollect that I went with him and Mr. Joynt to Michan's church.

*Mr. Whiteside.*—Your mind is naturally so cloudy and obscure you can't recollect the fact?

*Witness.*—I hardly think it was on a Sunday; I think it was on a week day: if we did go it was on a week day; I was not there on Friday or Saturday night.

*Mr. Whiteside.*—Upon your oath was it not a Sunday evening? Will you swear you did not go with him on a Sunday? if you have any capacity at all you will recollect that.

*Witness.*—We may have gone upon the Sunday.

*Mr. Whiteside.*—Upon your oath were you not there upon a Sunday?

*Witness.*—We may have been—we must have been together; I don't recollect being there with him; I positively assert that nothing occurred to make me recollect it.

*Mr. Whiteside.*—Did you see Dr. Joynt?

*Witness.*—Dr. Joynt was with us certainly (laughter).

*Mr. Whiteside.*—Do you ever wash your pretty face?

*Witness.*—I do.

*Mr. Whiteside.*—Do you ever sponge your body?

*Witness.*—I do.

*Mr. Whiteside.*—Where did he sleep?—was it not in the drawing-room, where there were no washing materials?

*Witness.*—I don't know that there were washing materials there.

*Mr. Whiteside.*—Did he not come down to wash in your room?

*Witness.*—He might have come down more quietly, considering the state in which he was.

*Mr. Whiteside.*—Did he not come down to your room to wash?

*Witness.*—Yes.

*Mr. Whiteside.*—By the virtue of your oath does Mathew know the difference between a breeches and a frock coat?

*Witness.*—I think he does.

*Mr. Whiteside.*—Did you produce a letter from your brother-in-law relating to your sister's property?

*Witness.*—I will not swear I did.

*Mr. Whiteside.*—Had he a good appetite at dinner?

*Witness.*—Yes.

*Mr. Whiteside.*—And was he not as lively as yourself in conversation?

*Witness.*—He was a great deal more so.

*Mr. Whiteside.*—Did you see him in Swift's Hospital?

*Witness.*—Yes; he was a great deal more quiet then.

*Mr. Whiteside.*—Did you ever say in Swift's that Mr. Mathew should never have been put into that hospital?

*Witness.*—Some remark of the kind was made. I did try to urge Mr. Stokes that he was not so ill, and perhaps he would be better if he were brought back to College.



*Mr. Whiteside.*—Did you ever say that Dr. Harty designed, long before he left Derry, to put him into an asylum?

*Witness.*—No.

*Mr. Whiteside.*—Did you ever say that you did not like to sign the certificate, lest you might offend Stokes?

*Witness.*—I did not. I suppose that it was upon my letter that Stokes came down to Derry.

*Mr. Whiteside.*—Do you swear that any sane man was induced to act upon your testimony?

*Witness.*—He did not come with me to Derry.

*Mr. Whiteside.*—You did not think that such a fool as he would travel with you to Derry. Did you say to Mr. Hall you could not give evidence against your relative?

*Witness.*—No.

*Mr. Whiteside.*—Were you ever present when open letters were handed by Stokes to the plaintiff?

*Witness.*—I can't recollect; many things passed between them to which I paid no attention. I do recollect that a female at Swift's said she did not think that Mr. Mathew was a fit subject for the asylum. I don't recollect having said on the occasion of the interview with Mr. Hall and the plaintiff, that one of the officials of Swift's had also said that the plaintiff was not a fit subject for Swift's.

*A Juror.*—You said that his manner was tossed?

*Witness.*—Yes.

*A Juror.*—Are you sure whether it was Mr. Mathew or the bed that was tossed?

No answer (laughter).

*To a Juror.*—Mr. Mathew did not tell me for what purpose he wanted the certificate.

*Juror.*—Did he tell you the ulterior object which he had in view?

*Witness.*—Oh, no; he did not.

*Mrs. Stokes* was then produced as a witness.

*Mr. Whiteside* objected to her being examined, as her evidence would go either to the advantage or disadvantage of her husband.

*Mr. George, Q. C.*, contended that *Mrs. Stokes* was admissible, at least, for Dr. Harty.

The CHIEF BARON said that it was a joint trespass, and he could not allow the lady to be examined. He had no hesitation in saying that he so ruled with very great reluctance. It was a question whether the wife did not come within the term of "party," in the Act of Parliament, so that she might be examined as well as her husband, who was a defendant or a plaintiff; but he would not unsettle the opinion of learned judges who had ruled that the wife was inadmissible.

After some discussion the objection was withdrawn, and the evidence was received.

The CHIEF BARON said that he received the evidence by consent, because there was nothing contrary to principle and analogous cases in so doing.

*Mr. Whiteside* said that he did not appeal to the testimony of the

lady, but he withdrew his objection to prevent points of law from being raised against his client.

**CHIEF BARON.**—I think you are acting very discreetly.

*Charlotte Stokes* examined by *Mr. Walsh.*—I am wife of the defendant Stokes; I know the plaintiff; I remember him in 1847; he had extreme lowness and depression of spirits. [*The lady here became very weak, and she stated that she had only just left a sick bed.*] The plaintiff was continually talking upon suicide; I may not remember his words; he asked me what manner of death I considered the easiest—whether drowning, or suicide by a razor, a knife, or any sharp instrument that would cut his throat; his manner was very low; he was always weeping, depressed, crying; he was very kindly treated at my house; he was always wringing his hands and saying, “He would not for hundreds, and thousands, and millions of worlds, it were so;” I asked him to explain “that,” but he never could give any explanation; his answer was always “that.”

*Mr. Walsh.*—Was he medically treated for insanity at your house?

*Mr. Whiteside.*—I object; this lady is not a doctor.

**CHIEF BARON.**—I think the question is a legal one.

*Mr. Walsh (to Witness).*—How was he treated?

*Witness.*—His head was shaved; he recovered under that treatment to a certain extent; he came again to my house after his return from Derry, in the summer of 1850; his manner was more excited than upon the former occasion; he also spoke of suicide as upon the former occasion; his manner was excited; he used to weep, but more frequently he used to take immoderate fits of laughing; he was treated medically; his head was shaved; he was also leeches; he was blistered with ointment upon both occasions; he left the house early in August; he was so kindly treated that he said, “I was the only mother he ever knew;” he frequently spoke of Dr. Harty; he spoke about him in connexion with his illness; he frequently spoke about his kindness; he never spoke unkindly about him; quite the contrary; we did not very often talk about Dr. Harty; he seldom spoke upon any connected subject; short sentences without any meaning were what he uttered; Dr. Harty attended him on those occasions when he was ill; while he was ill in 1847 he did not see any friends; I never recollect any one calling; when he was better I think one gentleman called; that was a Mr. Bracken; I was very much at home at that time; I remember the time that he came back from Derry before he went to Swift’s; he was very much excited; I had not much conversation with him; I observed that his manner before strangers was more restrained, but occasionally he used to break out before strangers; before he went to Swift’s he used to be continually running from room to room, from the kitchen to the top of the house.

*Mr. Whiteside.*—Did he ever go out upon the slates? (a laugh.)

*Mr. Walsh.*—Describe any peculiarity of manner.

*Witness.*—He used to repeat lines from Shakspeare—from Hamlet’s soliloquy.

*Mr. Walsh.*—Repeat the line.

*Witness.*—

“Who would fardels bear”——

You must excuse me, I cannot go farther. I am weak and unable to speak.

*Mr. Walsh.*—Can you state any more?

*Witness.*—

“When he could his quietus make with a bare bodkin?”

I remember his asking, as he had done before, the easiest mode of death, and saying that “annihilation was preferable;” we did not know what he meant, but he used to cry out, “annihilation is preferable!” [*A Letter handed to Witness*]. I received that letter from the plaintiff. [*Letter given in evidence.*]

*Cross-examined by Mr. Armstrong.*—I have come here from my bed; I was here three days; I did not hear my husband examined; we talked of the circumstances as they occurred; during the six months Mr. Mathew was with me in 1847, he used to ask what was the easiest mode of death; he also said that annihilation was preferable; I have myself read the whole of “the soliloquy” in Shakspeare; I did not hear it read at home; I have no copy of Shakspeare in the house at present; I believe there is a book in the house which contains that soliloquy; we have a number of books; the plaintiff may have read that book for his amusement.

*Mr. Armstrong.*—You heard him talking of “the bare bodkin?”

*Witness.*—Yes.

*Mr. Armstrong.*—Have you a work-box?

*Witness.*—Yes.

*Mr. Armstrong.*—Did you lock up the bare bodkin to prevent him from sticking himself with it?

*Witness.*—No. I believe he went to church with my family when the crown of his head was shaved, but not when he was in the depressed state of mind; he was not allowed to go about by himself when we apprehended any danger.

*Mr. Armstrong.*—Upon your oath did he not go in for the October examination of 1847 while in your house? Look at the Jury and answer that.

*Witness.*—May I beg the mercy of the Court?

CHIEF BARON.—For what?

*Witness.*—From this cross-questioning.

CHIEF BARON.—The counsel for the plaintiff is entitled to ask you these questions.

*Witness* then said she did believe that the plaintiff went in for his examination and for “honors;” part of the time he was in her house he was unfit for study, and when he got better he read.

*Mr. Armstrong.*—Did you ever hear who the plaintiff was?

*Witness.*—Not till last night, when my husband told me.

*Mr. Armstrong.*—You never inquired?

*Witness.*—No.

*Mr. Armstrong.*—You are not a curious person—you are unlike the rest of your sex. Do you keep a house in which there are “middling”

persons—persons who are not fit for home, and not bad enough for an asylum?

*Witness.*—The greatest number I remember in the house was three.

*Mr. Armstrong.*—If Mr. Stokes swore that there was only one patient there, would he tell truth?

*Witness.*—He knew there were more.

*Mr. Armstrong.*—Did you ever put a strait waistcoat upon a Mrs. Jones?

*Witness.*—No.

*Mr. Armstrong.*—Did you ever cling to the steps of the car upon which she was removed, and say you would not let go the car—that you would lose your life sooner?

*Witness.*—I thought she was committed to our special care.

*Mr. Armstrong.*—Did you ever make an affidavit about this Mrs. Jones?

*Witness.*—I don't remember.

*Mr. Armstrong* produced an affidavit sworn on the 16th of November, 1847, by the witness, in reference to Mrs. Jones.

*Witness* admitted that she had sworn the affidavit, but at first she did not remember the circumstance; she had been for some time labouring under indisposition—so much so, that she would forget things that had occurred during the week in her own family. The plaintiff used to play about the house with the children, but never alone; there were always two or three together.

*Mr. Armstrong.*—Was the “bare bodkin” there at the time?

No answer.

*Witness.*—The plaintiff told me he was an orphan, and had no friends; I could not say the day or the moment he repeated the quotation, but I swear he was always saying it.

[*At this period the witness became very faint, and water was supplied to her; she was then allowed to retire.*]

*Elizabeth Kershaw* examined by *Mr. George.*—I was living with Mr. Stokes in 1847; he then lived at Drumcondra, and the plaintiff came there while I was there in June; I left in August, and was away from that time until November; I went to attend Mrs. Stokes in her confinement, and saw Mr. Mathew several times every day; he was ill when he came first, and when I went away in August; I saw Dr. Harty come there to attend Mr. Mathew; his head was shaved, and Dr. Harty ordered ointment to be put on his head to bring out an eruption; there was a garden to the house, and Mr. Mathew used to go into it; I have observed extraordinary conduct on the part of Mr. Mathew, and remember Mrs. Stokes sending him out to the garden to pull a dish of peas, and he came in with three or four pods, and asked was that enough for a dish; I have seen him standing on the walk, and clap his hands once (laughter); I heard him say once, “Not for thousands.”

*A Juror.*—Might he not have clapped his hands to frighten the sparrows from the trees?

*Witness.*—I don't think so.

*To Mr. George.*—I have gone to his room to hurry him down to

breakfast ; he was in the habit of coming down very slowly ; one morning I called him, and he did not come, and I went back in an hour and found him on the floor undressed (laughter) ; he was in bed when I called him first, and was then in a state of health to enable him to get up and come down.

*To the COURT.*—He was quite undressed, but he had his shirt on. (Laughter.)

*To Mr. George.*—I have seen him sit for hours with a book in his hand, and when I asked him what it was, he would say he did not know ; that occurred on more than one occasion ; he did not appear to be reading the book he had in his hand.

*Cross-examined by Mr. Napier.*—Mrs. Stokes was not confined until the 21st of December, but was ill in June ; there were other servants in the house ; there was no Mrs. Jones there ; I never looked at the books he had in his hands ; I don't know Greek ; I can't say if he was committing anything to memory ; I can't say how long he was out of bed the morning I went up twice (laughter) ; I did not see him twice in his shirt ; the first time I went up he was in bed ; I don't dress in bed ; it was not unusual for the inmates at Stokes's to dress in bed.

*To the COURT.*—I did nothing but attend the baby.

*To the Jury.*—I did not ask Mr. Mathew what book he was reading, but what he was reading.

*To the COURT.*—I asked him more than once.

*To the Jury.*—He did not say what was it to me when I asked him what he was reading ; he always answered civilly, and did not consider it impudent for me to ask what he was reading.

*To the COURT.*—I oftensaw him in the garden, but never in the kitchen ; I never saw him play with the children about the house, but I saw them in the garden together ; I called once when Mr. Mathew was going to the North in 1850 ; there was a car at the door, and he was going away ; I went in to see him when he was going away, and he said he did not know what he was going for, but that he hoped he would be soon back ; when he was reading in the window he had his head shaved : I asked him was it not his own wish to go to the North, and he said it was, but he hoped to be back soon.

*Dr. John Mollan examined by Mr. Walsh.*—I am a physician, and am acquainted with the disease of insane persons ; I have been connected with the Richmond Lunatic Asylum for twenty years ; I know the plaintiff ; I saw him once before this action commenced, on the last day in January last, at Mr. Stokes's house in Mountjoy-street [*certificate produced*] ; I signed that document on the day I saw Mr. Mathew ; I was brought there by Dr. Harty professionally to see him ; I saw him in the drawing-room, and was left alone with him ; I examined him to ascertain the state of his mind ; I applied tests to discover it ; I asked him various questions as to his state of mind before he left Mr. Bowen's ; I can't recollect the order of the questions or answers, but I can state the substance ; he told me he was depressed, despondent, and irritable, and that his usual occupations were exceedingly irksome to him ; he said he was irregular in his hours for discharging his duties, and

was reprov'd for this irregularity by some of the family, which he seem'd to conceive was unreasonable ; I ask'd him subsequently as to what transaction occur'd to him in Derry, to which he could not give me any satisfactory reply ; I could not fix upon the precise answer he gave, but it amount'd to this, that he had no precise object in remaining in Derry ; I spok'd to him as to the state of his health generally, and he said it was very good ; from what I had heard of his mental condition, I consider'd he had been addict'd to secret vice ; I interrogat'd him about it, and he admitt'd that it was so ; that frequently leads to, and is sometimes the cause of, melancholy madness ; before the interview terminat'd, Dr. Harty came in and tax'd Mr. Mathew with his conduct in Derry ; the plaintiff did not seem affect'd by the charge, but receiv'd it with the most perfect indifferenc'e ; Dr. Harty accus'd him of misspend'ing his time and his money, and he made no answer to it, and did not appear asham'd ; there appear'd to be a total absence of moral feeling about him ; that is a characteristic of a particular kind of madness ; the examination continu'd for half an hour, and I satisfi'd myself, as a medical man, that he was insane ; the madness he had was characteriz'd by occasional fits of depression, despondency, and a total disregard to duty ; it was of a nature to lead to delusion as to his spiritual state ; that species of madness is accompani'd frequently by tendency to self-destruction ; the secret habits I have allud'd to aggravate such a state of mind ; patients so affect'd are frequently not known to be insane to casual observers, and Mr. Mathew was affect'd in that way ; I satisfi'd myself that he was a proper party for an asylum, for a person in the desponding state he was in very often changes to the opposite state, viz., excitement ; in this depress'd state a person cannot be induc'd to do anything, and in this excit'd state they conceive that there is nothing too difficult for them to accomplish.

*To the Court.*—I am now speaking generally of the disease which I think affect'd Mr. Mathew.

*To Mr. Walsh.*—It was my deliberate opinion that he was insane, and a fit subject to be confin'd.

*Cross-examin'd by Mr. Whiteside.*—At the time I saw him he was not in the melancholy state ; he was not excit'd ; I never saw him before, or knew of his talents or misfortunes ; Dr. Harty call'd on me the day or two before I saw Mr. Mathew ; I won't swear it was not three days ; he did not say the gentleman was not in Dublin, nor did I know ; he said he was a Scholar of Trinity College ; I never spok'd to him but that day about the plaintiff ; I think I call'd on him on other business, and then he spok'd to me about it ; I had not a long talk with him ; Dr. Harty said the plaintiff was mad, on our way to Mountjoy-street to see him ; I have no recollection of his saying Mr. Mathew was mad before, on the first day I saw him ; he told me so in my carriage, when we were going to see him ; I have known Dr. Harty for a number of years ; he has a lunatic asylum, and I have put a patient in there ; he never got out ; he di'd there (laughter) ; I have discharg'd duties at the prisons for Dr. Harty ; I would depend on his word, and would be guid'd and influenc'd by his opinion ; decid'dly, it is a very great responsibility to sign a certificate to send a person to a madhouse ; I have

no note of my interview with Mr. Mathew, and nothing to refresh my memory but the certificate; I have a tolerable memory; Dr. Harty introduced me to the plaintiff; I can't say the words he used, but he said something to the effect that I was coming there on behalf of Dr. Sadleir, his tutor, to inquire into the state of his mind; I don't know that that was not true; I heard Dr. Sadleir examined, but did not hear him examined to this point; I was not authorized by Dr. Sadleir or the University; I thought I was going there by the directions of Dr. Sadleir; Dr. Harty told me so; I got no fee; I heard he was a young man depending on his scholarship—in fact, a pauper; Dr. Harty did not say he was his guardian, or that he was an orphan; I did not attend Mrs. Jones, or know anything about her; I never saw her; I have attended patients at Stokes's; I cannot tell how the plaintiff was occupied when I went in; there was a piano in the room, and I can't say if he was playing or singing; there were some children in the room; his insanity was difficult to be seen, but there was nothing like insanity in his manner when I went in; I formed no opinion until I came to examine him; we sat on the sofa; I could not say if I sat on it, but he did; I could not say how I commenced or finished the conversation, but I asked him a variety of questions; I asked what led to his leaving Mr. Bowen's, and he told me Mr. Bowen reproved him for being late, and for his general irregular attendance, and that he did not consider that reasonable; there was no proof of insanity in that; I can't tell the next question I put to him, but I spoke of his health generally; I don't remember that he seemed to think me rather inquisitive; I don't recollect what he said about remaining in Derry; he said he had nothing to complain of as to bodily health, as well as I remember; infirmity of memory is no ground for sending a man to Swift's (laughter); I can understand that the occupation of teaching children for six or seven hours would be irksome to an educated man; I understood that this was not a constant feeling with him, but only occasional; irksomeness is not inconsistent with insanity; getting up late in the morning would not, in itself, be a proof of insanity; it would be no proof of insanity to exceed bounds when taking exercise; he said he sometimes was home late at Dr. Bowen's; he used the word "depressed," but I will not say he used the word "desponding;" the stomach affects the head, and as the stomach gets well, the head gets better; I would not send every irritable man to Swift's; as to the other matter I spoke of, it was Dr. Harty told me of it first; he did not tell me to ask him about it; there were letters from the plaintiff shown to me; a copy of a letter was shown to me by Dr. Harty; I have not spoken to Dr. Harty about the case since the trial commenced; I saw some letters of Mr. Mathew a few days ago; I can't say what Dr. Harty's object was in showing me the letters; it was probably to strengthen the opinion I had; the answer the plaintiff gave me when I spoke of secret vice, had no reference to period; he did not say it occurred at school, but he said the practice had been given up; after that Dr. Harty came in.

*To the COURT.*—He certainly spoke of this matter as of a past period.

*To Mr. Whiteside.*—Dr. Harty upbraided him with misspending money; I have upbraided madmen; the plaintiff made no answer; that

was no proof of mental imbecility, but it showed a want of feeling ; I did not know how Dr. Harty and Mr. Mathew were circumstanced ; the plaintiff appeared to have no sense of the impropriety of his conduct in Derry ; I know nothing that occurred there ; I would not say a man paying his debts, or keeping accounts, or admiring phrenology, would be a proof of insanity ; to sing " I'm Afloat " is no proof of insanity (laughter) ; upon the whole of his conduct, I considered he exhibited a total want of moral feeling ; I signed the certificate, and conceived it to be true ; I did not look at the householder's certificate attached to mine, and have nothing to do with it ; the plaintiff was excited to a certain extent when I saw him ; excitement is sometimes a proof of insanity.

*Mr. Whiteside.*—If that is the case, you may often dispose of me as a lunatic (laughter).

*To Mr. Whiteside.*—Getting a scholarship, or writing for a Vice-Chancellor's prize, is no proof of insanity ; I did not hear the plaintiff speak of committing suicide ; Mr. Mathew did not exhibit raving madness, or " his eye in a fine frenzy rolling " (laughter) ; I did not discover any delusion in the plaintiff, but unsoundness of mind may exist in cases such as I have described and found his to be ; the existence of delusion is not an essential ingredient in madness.

*Mr. Whiteside.*—I will now read for you, Doctor, a few passages in Sir John Nicholl's judgment in *Drew v. Clarke and Clarke*. He says—" As far as my own observation and experience can direct me, aided by opinions and statements I have heard expressed in society, guided also by what has occurred in these and other courts of justice, or has been laid down by medical and legal writers, the true criterion is—where there is delusion of mind there is insanity ; that is, where persons believe things to exist which don't exist, or, at least, in that degree exist only in their own imagination, and of the non-existence of which neither argument nor proof can convince them, they are of unsound mind." Do you agree in that ?

*Witness.*—I think that is correct.

*Mr. Whiteside.*—Dr. Battie, in his celebrated treatise on madness, thus expresses it. After stating what is not properly madness, though often accompanying it, namely, either too lively or too languid a perception of things, he proceeds—" But *qui species alias veris capiet, commotus habebitur*, and this by all mankind as well as the physician ; no one ever doubting whether the perception of objects not really existing, or not really corresponding to the senses, be a certain sign of madness, therefore ' deluded imagination ' is not only an indisputable but an essential character of madness." Deluded imagination, then, is insanity. Is that right ?

*Witness.*—Yes.

*Mr. Whiteside.*—Then, again, Dr. Francis Willis says—" A sound mind is one wholly free from delusion. Weak minds, again, only differ from strong ones in the extent and power of their faculties ; but unless they betray symptoms of delusion, their soundness cannot be questioned." Is that true ?

*Witness.*—In cases of moral insanity there may be no delusions. Mr. Mathew did not conjure up any delusions ; Dr. Pritchard



describes moral insanity, and there is no delusion often in such cases, and I considered that the plaintiff laboured under it; he had an incapacity to proper mental exertion; I did not examine him in Homer, or history, or anything else (laughter); moral insanity is a defect in the understanding—an inability to distinguish between right and wrong.

*To the Court.*—From his conduct and apathy I ground the opinion I formed; his conduct in Derry was, as I heard it, derogatory to his character and prospects; and having all these matters in my mind, and from my conversation with him, I arrived at the conclusion I stated.

*To Mr. Whiteside.*—He did not tell me about Derry, but I heard it from Dr. Harty; I would not sign a certificate to put a man in a mad-house on hearsay; I made up my mind he was mad before Dr. Harty came back; his conduct, when taxed with his conduct in Derry, confirmed my opinion.

*Mr. Whiteside.*—Did you ever hear of the work of Professor Connolly, of the London University, on insanity?

*Witness.*—Yes, I read it.

*Mr. Whiteside.*—Allow me to remind you of this passage—“The chances of life do not offer any condition more dreadful than would be that of a man who, in a state of sound mind, should be condemned to herd exclusively with lunatics. Who that acknowledges the inequalities of his own mental and moral capacity in different circumstances, and the influence of habits, situation, and associates, on his thoughts and actions, can fail to perceive that in such an unhappy situation the most constant and vigorous exertions of his self-command would be required to resist the horrible influences of the place—a place in which a thousand fantasies, that are swept away almost as soon as formed in the healthy atmosphere of diversified society, would assume shapes more distinct,—a place in which the intellectual operations could not but become, from mere want of exercise, more and more inert, and the domination of wayward feelings more and more powerful. Yet, in this disadvantageous state, a glance into the day-rooms of our lunatic asylums will show us that many individuals are actually placed—many who, though not enjoying a perfect state of reason or convalescent, are not mad; but are subjected, during the mental weakness of their convalescence, to the very circumstances most likely to confuse or destroy the most rational and healthy mind.” Do you agree in that?

*Witness.*—I think it is generally correct.

*Mr. Whiteside.*—That it would require the greatest exertion of self-command on the part of a man of sound mind to resist the horrible influences of the place?

*Witness.*—That is so.

*Mr. Whiteside* next read the following passage from a speech of Lord Erskine, and witness acquiesced in it:—“Another class, branching out into almost infinite sub-divisions, under which, indeed, the former, and every case of insanity, may be classed, is, where the delusions are not of the frightful character, but infinitely various, and often extremely circumscribed, yet where imagi-

nation (*within the bounds of the malady*) still holds the most uncontrollable dominion over reality and fact; and these are the cases which frequently mock the wisdom of the wisest in judicial trials, because such persons often reason with a subtlety which puts in the shade the ordinary conceptions of mankind: their conclusions are just, and frequently profound: but the premises from which they reason, *when within the range of the malady*, are uniformly false;—not false from any defect of knowledge or judgment, but because a delusive image, the inseparable companion of real insanity, is thrust upon the subjugated understanding, incapable of resistance, because unconscious of attack. *Delusion*, therefore, where there is no frenzy or roving madness, is the true character of insanity.”

*Mr. Whiteside.*—Suppose a man not mad to be put to herd with lunatics in a madhouse, is there anything so calculated as that to make him mad?

*Witness.*—I never knew an instance of a man being made mad in that way.

*Mr. Whiteside.*—You don't think it would affect him in the least degree?

*Witness.*—It might.

*Mr. Whiteside.*—Would it be comfortable for a sane man to be put into the same room with three madmen?

*Witness.*—No.

*Mr. Whiteside.*—Did you know that the plaintiff was locked up in a cell with three madmen?

*Witness.*—I knew nothing about it.

*Mr. Whiteside.*—Did you ever hear of the attendants in Swift's Hospital saying that the plaintiff was a sane man, and that he ought never to have been sent there?

*Witness.*—I never heard it.

*Mr. Whiteside.*—Did anybody ever tell you that you yourself were liable for sending him there?

*Witness.*—No, nor do I believe that I was.

*Mr. Whiteside.*—Well, don't be too rash in your belief. Were you in Court during the seven-and-a-half hours the plaintiff was under examination?

*Witness.*—I was in Court for a good part of the time.

*Mr. Whiteside.*—Was he examined as fully and as searchingly as you examined him?

*Witness.*—A great deal more so.

*Mr. Whiteside.*—Did you ever see a witness more sane and reasonable?

*Witness.*—I must say I never saw more self-possession, or heard better evidence.

*Mr. Whiteside.*—And that after he had spent seven weeks in an asylum?

*Witness.*—It was perfectly consistent with his having been insane at one period.

*A Juror (Mr. Gatchell).*—What is the character of Swift's Hospital?

*Witness.*—It bears a high character.

*A Juror.*—I mean, what kind of patients are usually confined in it?

*Witness.*—All persons who are in a state of unsoundness of mind, no matter of what form.

*A Juror.*—From the state which you describe that you believed Mr. Mathew to have been in, is that the hospital which you would have selected as a place of confinement for him?

*Witness.*—Most decidedly. I thought that he was in a state requiring moral restraint and moral influence, and I conceive that he could not possibly have been better placed than in Swift's Hospital.

*Mr. Whiteside.*—Perhaps you will ask him if any clergymen ever visit that institution.

*Mr. Gatchell.*—Are clergymen allowed to visit it?

*Witness.*—I know of nothing to the contrary; I don't think there is any chaplain specially appointed.

*Mr. Whiteside.*—Did you ever see Mr. Mathew in a state of depression?

*Witness.*—I did not; but I heard him describe a state of depression, which I decidedly considered to be a sign of an unsound mind.

*Mr. Whiteside.*—Do you say that there must be both occasional depression and occasional excitement in order to create that unsoundness?

*Witness.*—No; a melancholic condition might be continuous, but those two states sometimes pass from the one into the other.

*Examined by the CHIEF BARON.*—Are you able to say whether or not, without the excitement of actual delusion, or some false image or idea on the mind, the very great despondency to which you alluded is calculated to lead to suicide—or has it led to suicide?

*Witness.*—I think it may; but I would make this remark with regard to suicide, having considered numerous cases of it, that the idea of suicide very often occupies the mind of a man who presents no appearance of melancholy at all.

*CHIEF BARON.*—In fact, who is not insane?

*Witness.*—Excepting the existence of such a propensity, there might be no evidence of insanity in the mind at all; and a propensity such as that might exist in the mind of a man for weeks or years.

*CHIEF BARON.*—Are you able to say what you observed in Mr. Mathew that was calculated to lead to self-destruction?

*Witness.*—I do not think there was any evidence of a propensity to suicide existing in the mind of Mr. Mathew at the time I saw him; but what I apprehended was this—that in the state of excitement which he then presented to my mind, if he should have been led into company, and if he should have indulged in dissipation, or more particularly in an excess of spirituous liquors, he might have become a raving maniac in twenty-four hours.

*CHIEF BARON.*—I want to ask you whether or not his malady was such that, without delusion, it indicated unsoundness of mind leading to self-destruction?

*Witness.*—A condition of lowness or depression existed in Mr. Mathew at one time, such as very often leads to that propensity of suicide without positive delusion.

*CHIEF BARON.*—The only delusion I understand you to have per-

ceived was, his supposing that he was incapable of exertion which he might have made ?

*Witness.*—Precisely. Am I at liberty to express any opinion which I may have formed from what I heard during the progress of this trial ?

**CHIEF BARON.**—No. Was there any other delusion, at the time you gave the certificate, save the believed incapability of exertion ?

*Witness.*—No ; I would not assert the existence of any other delusion.

*James Cumming* examined by *Mr. George, Q. C.*—I have been manager of Swift's Hospital for the last seventeen years ; in 1829 I was appointed by the Lord Lieutenant manager of the Belfast District Asylum ; altogether, I have had 36 years' experience of lunatics ; Swift's Hospital is for the reception of lunatics generally ; I know the plaintiff ; in January last Dr. Harty called at the asylum for a form of admission ; he sent back the form, filled up, next Board day, for the inspection of the Board ; the plaintiff was sent on the evening of the 3rd of February, as well as I recollect.

*Mr. George.*—What was his state on that evening ?

*Witness.*—I thought his insanity very slight and partial.

*Mr. George.*—Do I understand you to say that you thought he laboured under insanity at all ?

*Witness.*—I took that for granted (laughter), from the certificate presented to the Board, and their order to receive him.

*Examination continued.*—On the following morning Dr. Cusack called, and Dr. Croker called on the next day, but at so early a period I could not judge of the plaintiff ; it was entirely on the credit of the testimony that we took him in ; we could discern nothing about him at first.

*Mr. Whiteside.*—Did you see any change in Mr. Mathew's manner after he had been some time in the hospital ?

*Witness.*—On observing him I thought he was very fidgetty and nervous, and, altogether, his state was such that I could not tell how it would terminate.

*Mr. Whiteside.*—What are you smiling at ? (Laughter.)

*Mr. George.*—Repeat that again to the Jury.

*Witness.*—We could not be certain at first what kind of disease he had (laughter), or in what degree ; but we thought when he had been some time in the hospital that it might have turned either to violence or to recovery ; fortunately it turned to recovery.

*Mr. George.*—You said something about excitement.

*Witness.*—He had a degree of excitement and restlessness, and fondness for lying in bed. (Laughter.)

*Mr. George.*—Wait until the laughing subsides before you go on with your evidence. What else did you see ?

*Witness.*—Why, I think, after a while, some of the patients complained that he disturbed them at night.

*Mr. Whiteside.*—That is no evidence unless we had the patients here, and then, no doubt, it would appear that they were the noisy people.

*Mr. George* (to *Witness*).—At what period did you observe that excitement and restlessness ?

*Witness.*—Indeed, I think in about a week or a fortnight after he came in.

*Mr. George.*—How long did those symptoms continue?

*Witness.*—I think for about a month; he got decidedly better after a month.

*A Juror (Mr. Gatchell).*—Did he exhibit no signs of this excitement for a week after his admission?

*Witness.*—We did not remark anything particular for a week. (Laughter).

*Mr. George.*—How long had he been in the hospital before you observed those symptoms of improvement?

*Witness.*—I would not exactly say the time; I suppose about a fortnight perhaps (laughter), or a month; I think that in the course of a month or five weeks he seemed to get better; so much so, that when Dr. Harty called I told him I thought he was fit to get a trial at home.

*Mr. George.*—Was Mr. Mathew present then?

*Witness.*—No.

*Mr. George.*—What was the change that you perceived to have taken place in Mr. Mathew at the end of a month?

*Witness.*—He had got more composed, I thought.

*Mr. George.*—Will you describe exactly what state he had been in previously.

*Witness.*—In a kind of excitement—only a degree of it—with restlessness.

*Mr. George.*—How did that show itself?

*Witness.*—It showed itself in a nervous feeling, and in making a great deal of small things; he was fussy and uneasy. (Laughter).

*Mr. George.*—Don't hurry. Everything you say seems to excite a laugh. You say there was a degree of excitement?

*Witness.*—Yes; a little thing would annoy him, and he would make a fuss about it, but there was nothing irrational—

*Mr. Whiteside.*—What's that?

*Witness.*—There was nothing irrational in his conversation, nor indeed in his conduct, except that. (Noise in Court.)

**CHIEF BARON.**—It is quite clear that the Court must be cleared if silence be not preserved. People who come here to listen, ought to recollect that they are not in a theatre.

*Mr. George.*—Then, his restless, excited, fidgetty manner excited your observation?

*Witness.*—Yes; he appeared to us like a person recovering from a fit of insanity, and there was a slight degree of it present when he came in; it terminated, I think, in recovery, as far as I could judge; it is a usual thing with persons engaged in reading, whose minds have been overworked.

*Mr. Whiteside.*—Well, now, you are not asked for your opinion on the matter.

*Mr. George.*—Well, but he is asked.

*Mr. Whiteside.*—I object to keepers of lunatic asylums being considered to be scientific men.

*Mr. George (to the Witness).*—Had you seen similar symptoms of insanity in other patients in Swift's Hospital?

*Witness.*—Many times.

*Mr. Whiteside.*—I object to this.

*Mr. George (to Witness).*—Do you conceive yourself competent to form an opinion as to the state of mind of persons under those circumstances?

*Mr. Whiteside* submitted that the witness was not a person competent to give his opinion as evidence.

The CHIEF BARON asked the witness to state the nature and extent of the duties which he performed in Swift's Hospital.

*Witness* said that he controlled the whole establishment, under the guidance of the Board, and directed the keepers in their treatment of the patients; that he did not, of course, prescribe medicines for them, but applied moral remedies. For instance, if a patient required restraint (which was very seldom), it was his duty to apply it under the guidance of the medical men. He generally superintended the whole establishment, and saw that the patients were properly treated.

CHIEF BARON.—Have you studied the subject of insanity?

*Witness.*—I have indeed; I have read nearly all the writers on the subject.

It was still urged by *Mr. Whiteside* and *Mr. Napier*, that the opinions of professional persons only were admissible as evidence.

*Mr. George (to Witness).*—What opinion did you form as to Mr. Mathew's state of mind, after having observed him for some time?

*Witness.*—I thought he was slightly ill, but that we must wait for the result; I did not know what way it would turn. (Laughter.)

*Mr. Whiteside.*—There's science!

*Witness.*—He was sometimes low, and sometimes violent, and we could not tell what turn it would take.

*Mr. George.*—Do you mean that he was ill in body or in mind?

*Witness.*—It was a restless excitement of mind, in a slight degree only.

*Mr. Whiteside.*—Did you, in short, treat him as a slightly insane person under your care?

*Witness.*—I withdrew every cause of excitement and of complaint from him, soothed him as much as possible, and made him take exercise and conform to the rules of the house, which had the very best effect.

*Mr. George.*—Did you apply to him the same moral restraint that you would have done to any other insane patient?

*Witness.*—Just so.

*Mr. Whiteside.*—We object to that being evidence.

*Mr. George.*—What treatment did you apply?

*Witness.*—In the first instance the medical men prescribed what they thought necessary, but I did not inquire into that.

*Mr. George.*—Did you follow out their prescriptions?

*Mr. Whiteside.*—I object to that question. It is not in proof that there were any prescriptions, and I deny that there were any.

*Mr. George.*—Prescriptions or not, what treatment did you apply?

*Witness.*—Moral treatment. I made him take exercise, withdrew every cause of excitement from him, and attended to his diet.

**CHIEF BARON.**—You knew nothing of any medical prescriptions ?

*Witness.*—No ; I never interfered with them.

*To Mr. George.*—After four or five weeks under that treatment, the restlessness and excitement subsided ; one or two gentlemen from College called at the asylum to see the plaintiff ; I think it was before Mr. Hall called that I communicated to Dr. Hartly that the plaintiff was so well that he might get a trial with his family ; Dr. Hartly promised to make arrangements for his removal ; I am not sure whether the plaintiff was by at the time or not ; Dr. Hartly visited him three or four times during the seven weeks he was in the asylum ; at the interviews between them I used to be present for a while, and then to leave them to themselves ; the plaintiff was removed in about a fortnight after I said he might be taken away ; during his stay in the institution I always heard him speak kindly of Dr. Hartly.

*Cross-examined by Mr. Napier, Q.C.*—Have you studied the various works on insanity ?

*Witness.*—A great many of them.

*Mr. Napier.*—What is the difference between moral and physical treatment ?

*Witness.*—That is a subject I cannot speak upon.

*Mr. Napier.*—You cannot speak of the difference between moral and physical restraint ?

*Witness.*—No.

*Mr. Napier.*—Did it not take you a week before you observed anything about him ?

*Witness.*—It took more than a week.

*Mr. Napier.*—Then, the excitement came on after he got into the place ?

*Witness.*—No ; but it became greatly allayed.

*Mr. Napier.*—I ask you if it did not begin after he came into the asylum ?

*Witness.*—It was present when he was received.

*Mr. Napier.*—Did you not swear that you did not observe it for a fortnight ?

*Witness.*—I did not form an opinion on it ; I said I had not formed any judgment.

*Mr. Napier.*—Was he as excited as I am at this moment, on your oath ?

*Witness.*—Indeed, a very trifling thing might excite him.

*Mr. Napier.*—Did you ever see Mr. Whiteside in court for the length of a day ?

*Witness.*—I have.

*Mr. Napier.*—Do you believe him to be a sane man ?

*Witness.*—I have every reason to believe him to be so. (Laughter.)

*Mr. Napier.*—Had the plaintiff any occupation during his confinement ?

*Witness.*—He would not employ himself in any way, or take exercise, at first.

*Mr. Napier.*—What else had he besides exercise ?

*Witness.*—There was a library provided for him, if he chose to read.

*Mr. Napier.*—Suppose a man to go to a pleasant country place, and take exercise and reading there, don't you think that would be as good moral treatment for a man of rational conduct and conversation as Swift's Hospital ?

*Witness.*—I cannot form an opinion on the subject.

*Mr. Napier.*—Come, Doctor, look at the Jury and answer that question.

*Witness.*—I am no doctor.

*Mr. Napier.*—Well, Mr. Cumming, upon your oath do you believe that the moral treatment of exercise and regularity would not have been as well taken by him in a country place in the neighbourhood of Dublin, as in Swift's Hospital ?

*Witness.*—I very much fear it would not have been given in the same way. (Laughter.)

*Mr. Napier.*—You saw Mr. Hall here ?

*Witness.*—Yes.

*Mr. Napier.*—Did you say to Mr. Hall, when he called at the asylum, that there was nothing the matter with the plaintiff ?

*Witness.*—I wanted to find out from the gentleman who called—for I did not know who he was—how he showed it before he came in (laughter), in order to assist my own judgment on the matter.

*Mr. Napier.*—And you took five weeks to form a judgment on the matter ?

*Witness.*—I wanted to assist my judgment and to form it. (Laughter.)

*Mr. Napier.*—Did you find out from Mr. Hall what had been the matter with the plaintiff ?

*Witness.*—He knew nothing of it—I merely asked him the question.

*Mr. Napier.*—Were you not as wise after Mr. Hall left as before he came ?

*Witness.*—Just the same.

*Mr. Napier.*—Did the plaintiff get no medical treatment at all ?

*Witness.*—I think he did, but I leave that to the medical men ; Dr. Cusack prescribed for him.

*Mr. Napier.*—At what time did you put him to bed ?

*Witness.*—The hours are from seven in the morning until nine in the evening ; they are at liberty to go to bed then if they choose, but any one wishing to remain up and read can do so.

*Mr. Napier.*—Was he not obliged to go to bed at eight o'clock ?

*Witness.*—Not to my knowledge.

*Mr. Napier.*—Well, did you allow him to take exercise, and to go to bed just as he liked ?

*Witness.*—There is an attendant always to control those things ; each ward has its own attendant, and he has orders to let them remain up until nine o'clock, if they wish it.

*Mr. Napier.*—Were there the first night he came ?

*Witness.*—I was.

*Mr. Napier.*—Did you see him put to bed that night ?



*Witness.*—No; I don't think I did.

*Mr. Napier.*—Do you think, if he had been out at a country-house, he would have got such a comfortable bed as you gave him?

*Witness.*—We were not prepared for his reception when he came; but, on the following day, he was moved into another department, containing the most comfortable accommodation the establishment afforded.

*Mr. Napier.*—You kept him in the cell for three days?

*Witness.*—Only for one night.

*Mr. Napier.*—That enabled you to discover the excitement clearly?

*Witness.*—No, not at all; I did not form any judgment about the excitement at that time.

*To the CHIEF BARON.*—In consequence of the want of room in the other wards, he was put, on the night of his arrival, among what are called the free patients, or those who pay nothing.

*Mr. Napier.*—When you wanted to discover from Mr. Hall what had been the matter with him, did you not say to Mr. Hall that his conduct was rational?

*Witness.*—I did; and I say so still.

*Mr. Napier.*—And don't you think that that was pretty good proof of his sanity?

*Witness.*—It might be no proof.

*Mr. Napier.*—Were you ever a witness for Dr. Harty before?

*Witness.*—Never; I know very little of Dr. Harty.

*Mr. Napier.*—But you knew him a long time?

*Witness.*—Slightly for many years.

*Mr. Napier.*—I suppose it is a treat for you to get a sight of a rational man?

*Witness.*—No, it is not.

*Mr. Napier.*—I understand from you, that with regard to this gentleman, all you can say is, that he was fidgetty, and a little excited?

*Witness.*—I think so; but I did not know how it might have terminated.

*A Juror (Mr. Gatchell).*—What was the extent of the excitement? Did he break the glass?

*Witness.*—No.

*Juror.*—Did he kick you down stairs? (Laughter.)

*Witness.*—No; it was a very slight degree of excitement. (Laughter.)

*To the CHIEF BARON.*—On the day after his arrival he was removed to what is called the gentlemen's ward, where the paid patients are, and he had a very nice room there.

*Mr. Whiteside.*—Mr. Mathew desires me to ask you how many were in that room? He says there were three.

*Witness.*—After he had been in the gentlemen's ward for some time, he took a liking to two gentlemen in the ward, who slept in a nicely papered and carpeted room, and went to sleep with one of them. Previously to that he occupied a wardroom of fourteen feet by ten, with one window; in which there was a bed with blankets, hair mattress, and straw tick.

*CHIEF BARON.*—Had he a looking-glass?

*Witness.*—No; we would not trust strange patients with looking-glasses. They are only given to some females; but it is not considered safe to give them to the patients generally. (Laughter.)

*CHIEF BARON.*—How did he shave?

*Witness.*—Oh! the patients are never allowed to handle a razor; they are always shaved by a person there.

*Mr. Napier.*—Did you ever look at your own face in a glass?

*Witness.*—Often.

*Mr. Napier.*—And it did not set you mad? (Laughter.)

*Witness.*—It might, I think, if I was disposed that way.

*Mr. Whiteside* then called on his Lordship to strike any opinions that the witness had given as to Mr. Mathew's state of mind out of the evidence.

*The CHIEF BARON* stated that he would do so.

The next witness was *Dr. William Harty*, one of the defendants. He was assisted into the witness-box, and was evidently very weak and exhausted.

*Dr. Harty* (to the *CHIEF BARON*).—I feel exhausted, my Lord. I have been waiting all day within the precincts of the Court.

*CHIEF BARON.*—If you desire it the Court shall be adjourned, and it may be more agreeable for you to give your evidence in the morning.

*Dr. Harty.*—Oh! no, my Lord, no. I would prefer it this evening. I am here; it is better to go on now. Perhaps it might be too——

*CHIEF BARON.*—Well, then, proceed, *Mr. Walsh*.

*Mr. Walsh* (to *Witness*).—Do you know the plaintiff?

*Dr. Harty.*—I do.

*Mr. Walsh.*—Whose son is he?—is he your son?

*Dr. Harty.*—With sorrow and shame, and in deep contrition, I here acknowledge that I am the guilty father of that poor, helpless boy.

*Mr. Walsh.*—Do you remember the occasion of his being sent to Swift's Hospital?

*Dr. Harty.*—Well.

*Mr. Walsh.*—You have had much experience in treating lunatic patients?

*Dr. Harty.*—I have had some.

*Mr. Walsh.*—On your oath, and to the best of your judgment, was the plaintiff about that time so insane as to require confinement?

*Dr. Harty.*—On my oath, and to the best of my judgment, he was.

*Mr. Walsh.*—How long has his mother been dead?

*Dr. Harty.*—Something near twenty years.

*Mr. Walsh.*—Did you pay for his education and schooling?

*Witness.*—I did, altogether.

*Mr. Walsh.*—Was it out of your own money, *Dr. Harty*?

*Witness.*—Out of my own money, altogether.

*Mr. Walsh.*—Had you any funds for his education from any other source?

*Witness.*—I had no funds but a sum of £150 which lay in my hands, and was left by his mother, at my discretion, for his benefit; the only sum that was left at all applicable for his use at any time was that £150.

*Cross-examined* by *Mr. Whiteside, Q. C.*—Did you ever tell this young gentleman he was your son?

*Witness.*—I never did.

*Mr. Whiteside.*—Did you ever tell him he was born in Monmouthshire?

*Witness.*—Yes, for that was perfectly true.

*Mr. Whiteside.*—Did you ever tell him he was born in Kingstown?

*Witness.*—No.

*Mr. Whiteside.*—When was he born?

*Witness.*—In 1826.

*Mr. Whiteside.*—He was not a pauper then?

*Witness.*—No.

*Mr. Whiteside.*—Was his mother a lady?

*Witness.*—She might fairly be designated as such.

*Mr. Whiteside.*—Was there any religious ceremony between you?

*Witness.*—No; I was married—there could not be.

*Mr. Whiteside.*—Will you swear there was none?

*Witness.*—Most peremptorily not.

*Mr. Whiteside.*—Were you practising as a physician in Dublin?

*Witness.*—Yes.

*Mr. Whiteside.*—Was it an accidental visit brought you to Monmouthshire?

*Witness.*—No; certainly not.

*Mr. Whiteside.*—How long did you remain there?

*Witness.*—Two days.

*Mr. Whiteside.*—Did she come to Dublin?

*Witness.*—Yes; she lived near Dublin.

*Mr. Whiteside.*—She left a sum of money for the education of the boy?

*Witness.*—No; she left it at my discretion.

*Mr. Whiteside.*—How did she get the £150?

*Witness.*—She acquired it by her services.

*Mr. Whiteside.*—When did she die?

*Witness.*—In 1833.

*Mr. Whiteside.*—This lad was in the Feinaiglian school?

*Witness.*—Yes.

*Mr. Whiteside.*—How much did you pay for him?

*Witness.*—About £40 a year.

*Witness* then stated that the plaintiff entered College as a pensioner, and afterwards got his scholarship; for the twelve months before he got his scholarship I saw him seldom; I can not say how often I saw him; during a part of the time the plaintiff was in the country, so that I could not see him; I will swear I saw him twice in the year 1850; I have no recollection that I told Stokes to call on him; I did not advise him either to go or stay from Mr. Bowen's; I was in bad health at the time, and going upon a visit to a friend in the Isle of Man, and the day I was leaving town was the day upon which I lent him the £5; I had no opportunity of testing and knowing his state; I talked with him that day; I did know that he was going to Mr. Bowen's; I lent him £5 to pay debts which he owed; he did go to Mr. Bowen's; I know that he was at Derry; while there Dr. Mollan called upon me several days before the plaintiff came up

from the country ; having received letters, I had little doubt as to his morbid state ; Dr. Mollan was in attendance upon me ; I told him I wished him to see the young man, and as the governors of Swift's Hospital were to meet on the following Monday, no time could be lost ; this might have been three, four, five, or six days before Mr. Mathew came from the country ; I had not made up my mind to put him into Swift's ; if it was deemed necessary, from mine and Mr. Mollan's inspection of him, I resolved to put him in ; I called upon Dr. Sadleir ; I desire to be most candid ; my memory is not what it was about details, but I can scarcely be mistaken upon essential and important things ; I certainly did call upon Dr. Sadleir, and did make the arrangement about the stipend to be paid in the hospital before he came from Derry ; the plaintiff had £4 when he came from Derry ; I took it from him, and gave it to Mr. Stokes to pay Foley ; my directions to Stokes were to see Foley and pay him, but the amount was only paid about a fortnight before Mr. Mathew was liberated from the asylum ; I don't know Foley ; I know that he demanded payment of his debt ; Stokes got a receipt from Foley ; I did not get it ; I did not tell Dr. Mollan that Mathew was insane ; I told him my opinion was that he was insane ; from all I had previously known of him, I had no doubt about it ; I remained in the room upon the occasion of the interview with Mathew and Dr. Mollan about half-an-hour ; I left the room having been there half-an-hour ; I was out of the room half-an-hour ; I am positive we were there more than half-an-hour ; before I left the room I detailed all the insane acts of the plaintiff in the presence of Dr. Mollan ; Mathew did not deny what I said, and before I left the room I said to Mathew—" Henry (as I familiarly called him), it is for you to satisfy Dr. Mollan that you are not either a fool or a madman ;" I did not tell him that Dr. Mollan came from Dr. Sadleir, or upon the part of Dr. Sadleir, for any reason but to satisfy him ; Dr. Sadleir did not tell me to make Dr. Mollan call upon the plaintiff ; I knew that he was at the Botanical Gardens ; I knew he was out on Friday and Saturday, and I dare say he was at church on Sunday ; upon Monday I told him I was about to bring him to the King's-bridge ; in the car ; he was not violent or foolish ; he was not wise ; there was not anything absurd in his conduct in the car ; I saw him again before the following Saturday ; I can't say how often I saw him ; the second week I saw him less than I would wish ; I can't say how often I saw him the third or fourth week ; once a week was oftener than I did see him ; I got from Dr. Sadleir £15, half a year's allowance ; I gave the balance of the amount and the account to Mr. Stokes, to give to Mathew upon his removal from Swift's ; I charged £5 for the expenses from Derry, and other matters ; the charge of 1s. 6d. for the car to and from Swift's was not too much ; £2 6s. was the balance coming to him ; I asked him to whom he had written, and he said to the Rev. Mr. Gregg ; I saw Cumming give Mathew pens, ink, and paper ; I can't say in what week of his confinement that was ; I do not know that anything written by a person in Swift's would be intercepted ; I don't do it ; when I allow persons to write at all, I allow the letters to go free ; I did not ask him if he wrote to Mr. Gregg ; I dare say I asked him to whom he had written, and he said to Mr. Gregg ; I asked what address he

had put upon the letter—had he put Swift's Hospital; he said he had put it, and I said that was not what I would have expected he would have done; I would have expected more discretion from him; I never heard of Mr. Hall looking after Mathew; I never heard it from Cumming or anybody; I never dined at Stokes's house; I never breakfasted there; the plaintiff was not very mad all the time he was in the hospital; he was deranged; when he was put in the hospital he was not absurd; absurd conduct is a proof of insanity, and rational conduct is a proof of reason; I will not say he was rational while in Swift's; in my conversation with him upon the subject of previous acts, he demonstrated the unsoundness of his mind; he did not say anything remarkably foolish to me in Swift's; in my conversation with him, on my saying to him that it was impossible a man in his senses could have been guilty of such conduct, he smiled incredulously, but upon a subsequent occasion he admitted that he had acted foolishly; that was the strongest proof that he was getting convalescent, and so I told him; I have no recollection that when I asked him how he intended to dispose of his time in future, he replied that he intended to attend divinity lectures, and endeavour to get the Vice-Chancellor's prize; I do not think he said so; I will not say he did not; it was I who desired that all his College books should be sent to him; he was then about a month in Swift's; he expressed an anxious desire to put in the next examination; I told him I would send him the books; having sent them, he said he could not read them there; I told him that I had intended to leave him there for the quarter to establish his convalescence, but I would have him liberated if he pleased for his examination; I told him I would make every arrangement for his liberation, so that he might read for his examination; I told him if he remained in Swift's up to his examination, he might go out and afterwards return to it, having passed his examination, so as to put in the three months; I was perfectly satisfied that he could not be convalescent in a shorter period than three months; I said to him my opinion was that it would be beneficial for him to remain there for three months; I paid for a quarter; less would not be received; I asked him if he knew where he was, and he said he was in Swift's; a doctor might be deceived as to an insane person; rational conduct, so far as it went, was a proof of sanity; I do not think (said witness) his desire to get out to read for examination was a proof of sanity; it is a proof of a man's sanity that he desires to remain in an asylum for a given time to recover; my license was never withdrawn by the Lord Chancellor; my age is 71.

*To the CHIEF BARON.*—I did not show to Dr. Mollan the letters sent to me by Mr. Bowen; I left him to judge for himself; I did not show him any of them; I did not mention the substance of them to him.

At half-past six o'clock the case closed for the evening.

## SIXTH DAY.

*Wednesday, 17th December.*

The next witness called was *Surgeon Francis White*. He was examined by *Mr. George, Q.C.*—He said—I am an Inspector of Lunatic Asylums; I am a medical man; I am also a Fellow of the Royal College of Surgeons; I have, from time to time, inspected Swift's Hospital; it was originally founded by Dean Swift; the public, then, contributed to its support; a charter was granted to it; as Swift's is not a licensed established asylum, it does not come so much under our control as the private or district asylums; I visited the hospital in February last; I know Mr. Mathew's appearance; in the beginning of February I saw him; he was in what we call the day-room and reading-room; I was introduced to him by a convalescent patient; Mr. Cumming, also, was present; he addressed me; the substance of what he said was, he protested against being brought to Swift's; he complained loudly of that, and that he had been interrupted in his course of study, which he thought was very wrong; he said he considered he was not insane; I asked him his line of life; he said he was a scholar of Trinity College, and had obtained honours—and he possessed me with the idea that he was a very clever, hard-reading young man, and very prepossessing in his manner; when I first went into the room, his external appearance indicated that he was not in good health; he appeared to be haggard, worn, talkative, excited, and of a nervous character; his appearance was very different from what it is at present; I have had a good deal of practical knowledge from seeing so many patients, and, from my knowledge and experience, if I am asked my opinion of the appearance of the gentleman, and judging from the history of his life I have received, I will—

*Mr. Armstrong* objected to the witness detailing what he had heard as to the history of his client.

*Mr. George, Q.C.*, then asked the witness if, under any circumstances, the symptoms he had described were indicative of insanity?

The *Witness* replied in the affirmative: I heard, said he, from Mr. Mathew, the facts of his life, but I did not come to a conclusive opinion as to his state of mind at the time, but since then I have done so; I wish to explain why I did not form any opinion at the time; in cases where there is great excitement, patients always complain in the manner in which Mr. Mathew did, and we don't like to pronounce an opinion at first; they are very artful, and may be able to disguise the real characteristics of their malady; you cannot upon the first or second visit form a conclusive opinion; he was very excited, and complained of those who had put him into the asylum, as patients generally do when first put in, and therefore I hesitated to pronounce an opinion; I saw him afterwards in the hospital; I did not speak to him, but I saw him at a distance; I did not see him do anything; he was walking about, but I am now able, from what I observed upon the first occasion and learned from him, to form an opinion of him; I would not swear

that I am about to form an opinion only from what I have seen and heard from the plaintiff himself.

The CHIEF BARON said it should not be understood that he had ruled that he would not allow a witness to give an opinion as to the state of a person's mind from what he had seen and heard from the alleged lunatic and from others; but he wished that Dr. Mollan should be reproduced, as in his case the question could not arise, as he had personally examined the plaintiff.

*Mr. George (to Witness).*—Independent of what you heard from Mr. Mathew himself of his life and habits, did you hear anything about him from others?

*Mr. Napier* objected to the question being put.

*Mr. George* said that he had no intention of asking the witness if he had heard about the plaintiff from an unsworn person; and therefore he asked the witness, "Did he hear Dr. Mollan's examination?"

*Witness.*—I heard part of his evidence.

*Mr. Napier.*—I must object, my Lord, to this witness giving evidence which is founded upon what he believes to have been the testimony, or part of the testimony, given by another. I will refer your Lordship to the case of *Regina v. Higginson* reported in 1st Carrington and Kirwan. In consequence of the acquittal of Daniel M'Naughten, who was charged with the murder of Mr. Drummond, on the ground of insanity, at the Criminal Court, on the 5th of March, 1843, a discussion relative to five queries took place in the House of Lords, and Chief Justice Tindal said upon that occasion—"The question lastly proposed by your Lordship is, can a medical man, conversant with the disease of insanity, who never saw the prisoner previously to the trial, but who was present during the whole trial and the examination of all the witnesses, be asked his opinion as to the state of the prisoner's mind at the time of the commission of the alleged crime, or his opinion whether the prisoner was conscious, at the time of doing the act, that he was acting contrary to law, or whether he was labouring under any, and what, delusion at the time? In answer thereto, we state to your Lordships, that we think the medical man, under the circumstances supposed, cannot in strictness be asked his opinion in the terms above stated; because each of those questions involves the determination of the truth of the facts deposed to, which it is for the Jury to decide, and the questions are not mere questions upon a matter of science, in which case such evidence is admissible. But where the facts are admitted or not disputed, and the question becomes substantially one of science only, it may be convenient to allow the question to be put in that general form, though the same cannot be insisted on as a matter of right."

CHIEF BARON.—A person whose skill is asked may give evidence upon the assumption of facts to which another witness deposes; if those facts concurred with what he saw and heard, he would be able to form an opinion.

*Mr. George (to Witness).*—Are you not able, from anything you heard from Dr. Mollan in his sworn testimony, coupling it with what you saw and heard of the plaintiff, to form an opinion as to his sanity or insanity?

*Mr. Napier* said that he would not object to evidence being given upon facts which were not disputed; but certainly he would object to opinions being formed upon what a person had heard of the state of another.

*The CHIEF BARON* observed that if the matter to which the witness spoke was undisputed, there could be no objection to a scientific person giving his opinion in reference to it.

*Witness (to Mr. George).*—One particular part of the evidence of Dr. Mollan, coupled with what I heard said and what I saw of the plaintiff, enabled me to form an opinion; I am also enabled to do so from the evidence of Mr. Bowen, and the gentleman who travelled with him; I wish to say, respecting that part of Dr. Mollan's evidence in which he described him as a person deprived of all moral feeling, of depravity, and a person disposed to commit suicide—

*A Juror.*—Dr. Mollan did not use the word "depravity."

*Mr. Napier.*—I object, my Lord, to this species of evidence. A witness is put up here to give his opinions, founded upon the evidence of others. This is a deeply interesting case; everything that is done should be done legally, and no man should be allowed to draw his conclusions from the opinions of another. It is a most unrighteous attempt to injure my client.

*CHIEF BARON.*—So far as it went, it was a legitimate mode of examination; but the witness was forming his opinions, not upon Dr. Mollan's facts, but his conclusions, and that he could not do.

*Witness.*—I was wrong in using the expression "depravity." I collected from the evidence of Dr. Mollan that Mr. Mathew was destitute of moral feeling, and I took it for granted that the other followed. I am not at liberty to state why I formed that opinion.

*CHIEF BARON.*—The witness does not impute anything but the absence of self-control on the part of Mr. Mathew.

*Mr. George (to Witness).*—I ask you whether from the letters which Mr. Mathew wrote to Mr. Bowen, the conduct of Mr. Mathew deposed to, and from what you heard and saw, are you able to form an opinion of him?

*Witness.*—I heard the statement of his conduct made by Mr. Franks. I heard him say that he appeared to be very ill, and that he made every effort to induce him to leave the coach.

*Mr. George.*—Are you able to form any opinion upon the subject?

*Witness.*—I think I am.

*CHIEF BARON.*—Did you hear the entire of what Mr. Franks said relative to what occurred in the coach?

*Witness.*—No.

*CHIEF BARON.*—Putting aside every consideration, except what you saw and heard from the lips of Mr. Mathew—putting aside everything that you heard in the asylum, subsequently or upon the trial—putting aside every thing that you heard outside of this Court and while you have been in it—putting aside everything, except what you have read in those letters, are you able to form an opinion of his sanity or insanity?

*Witness.*—I am.

*CHIEF BARON.*—What is that opinion?



*Witness.*—My opinion, from reading those letters, is, that he was a person who contemplated self-destruction. From the tenor of the letters, I would take him to be a person labouring under a delusion, or some real injury; from the contents of the letters, I would take him to be a person who should be watched and tended, and that a certain degree of treatment was necessary to dispel the horrible results that he appeared, from the letters, to have contemplated. I form that opinion from the letters alone, if I had nothing else to guide me. I beg leave to state that I have not the slightest interest or feeling to gratify upon either side. I say this, because there appeared to be a kind of feeling that I would take an active part for one of the persons engaged in this cause.

*CHIEF BARON.*—I feel bound to say that nothing has occurred throughout the trial, to show that you, in the slightest degree, intended anything of the kind.

*Witness.*—I am very happy to hear your Lordship say so. I merely wish to tell the truth, and nothing else.

*CHIEF BARON.*—You say he required medical treatment?

*Witness.*—Yes, to dispel the gloomy thoughts under which he laboured when he wrote those letters; when he wrote those letters was the time at which he should have been placed under proper treatment; I beg also to say, that the young gentleman must have laboured under a misconception when he said I told him I was perfectly satisfied as to his sanity; I never told him I was convinced of his sanity.

*A Juror.*—I think you stated that you were not able, after the interview which you had with him, to say more than that he was excited, talkative, and nervous, and that these are the general symptoms with insane persons?

*Witness.*—With that class of persons.

*Juror.*—I think you also stated, that at that interview you were not able to form an opinion as to his sanity?

*Witness.*—A decisive opinion.

*Juror.*—I think you stated, that, excluding the letters and what you heard in this court, you had no opportunity of forming a judgment as to his sanity?

*Witness.*—No, but I had my suspicions; his answers to me were rational; he laboured under no delusion; but that is not inconsistent with the kind of insanity under which, according to my opinion, he laboured.

*Juror.*—But it is only from what you heard here that you can form an opinion.

*Witness.*—And from what I heard from Mr. Cumming and from convalescent patients in the house.

*Cross-examined by Mr. Armstrong.*—I don't like to mention the name of the convalescent patient; he is well now, but he was two months there after he told me so; it is necessary to keep a person a month or so in the asylum before he is discharged; after he stated this fact regarding Mr. Mathew, I tested his own mind, and I thought it necessary still to keep him in Swift's; the convalescent patient stated that he would not sleep in the room with Mr. Mathew.

*Mr. Armstrong.*—Was not the convalescent madman sent to another asylum after he left Swift's ?

*Witness.*—He was.

*Mr. Armstrong.*—Is he there now ?

*Witness.*—No.

*Mr. Armstrong.*—You were told, from what you saw and heard of Mr. Mathew in Swift's, and what the letters revealed, to form your opinion ; but analyse your own mind, and say were you about to exclude the other matters in forming your opinion ?

*Witness.*—I cannot say so ; but the three facts I have mentioned have brought me to the conclusion I have formed.

*Mr. Armstrong.*—And your opinion is uninfluenced by anything you heard from Dr. Mollan, or what you read in the newspapers ?

*Witness.*—Yes ; since I came in here I have endeavoured to banish from my mind everything but what should come before me upon this trial, and I think I have done so ; the plaintiff did not say anything to me that was not rational ; I have often met with such cases, in which persons have spoken rationally, yet the malady returned ; his language was coherent ; Dr. Cusack and Dr. Croker are the regular medical staff of the hospital ; the course of the house is, that one or other of them should be there ; my duties are to see that everything goes on properly in the house ; my visits are very frequent.

*Mr. Armstrong.*—Suppose you came to the conclusion that a man was perfectly sound in mind, would you consider it your duty to have him discharged ?

*Witness.*—I would, but I would require to see him often before I formed the opinion that he should be discharged ; I did not speak to the plaintiff a second time ; seeing Mr. Mathew so urgent and irritable upon the first occasion, I did not think it desirable to have an interview with him upon the second occasion, as I had made up my mind that he should not be discharged ; I went the third time to recommend that if he had recovered he should be discharged ; I did not see either Dr. Cusack or Dr. Croker lately ; I have not heard of their deaths ; I should think, from the general habit of those gentlemen, that they formed an opinion of Mr. Mathew, at least they paid attention to his case.

*Dr. Mollan re-examined by the CHIEF BARON.*—I did not hear Mr. Franks' evidence, but I heard Mr. Bowen's ; and, coupling the letters with what I saw of Mr. Mathew, and excluding anything I heard either from Dr. Harty or any one else, I came to the conclusion that he was a person of unsound mind ; it was an unsoundness of the character that made his state dangerous to himself ; I decided that he required to be under proper restraint.

*Cross-examined.*—I apply the answer to the time when I saw Mr. Mathew.

*To a Juror.*—I had not seen the letters before I signed the certificate.

*To the CHIEF BARON.*—When I signed the certificate I acted upon what I saw and heard of Mr. Mathew in January, but not upon the letters ; the letters are quite enough to enable me to form an opinion, excluding everything else.

[*The following letters (in addition to those already read) and certificate were then given in evidence on behalf of the defendant*] :—

*From Plaintiff to Dr. Harty.*

"Friday, June 7th, Bogay House, Londonderry.

"DEAR DOCTOR,—'Twas downright madness for me to leave Dublin. Oh! what a mercy it would be if I could return to-morrow. I have been regularly taking the pills that you were so kind as to prescribe, and which Mr. Stokes kindly had made up at once for me. Mr. S. very kindly assisted me in preparations, and urged me to start, and took a great deal of trouble for me; but would to Heaven that he had not brought me away; infinitely better would it have been for all parties concerned. Mr. S. said he would give you an account of some of the money that you so kindly lent me, which was laid out in making a few purchases with his cognizance and under his direction. It would be much better for Mr. Bowen if I could leave this at once. Oh, that I had waited to see you on your return. What compensation could be made to Mr. Bowen? Dear Doctor, what shall I do? If I were in College, in a few days' time, at liberty again, I could most probably have several pupils. There was something that offered at Kingstown for a visiting tutor which would just have suited; and then, as far as money is concerned, I could compensate to you and Mr. Bowen, and all creditors and parties concerned. But if I am to remain here longer than even a week, I know not what I shall do. If I had known what had been for my good originally, as well as you, there would be a different story to tell now.

"I am, yours faithfully,

"H. W. MATHEW.

"Oh! that I were back, before it be too late! My address is, 'Rev. Edward Bowen's, Bogay House, Londonderry.'—Oh! that I had the means to return."

*From Plaintiff to Robert Stokes.*

"Monday, 2nd Dec., Bogay House, Londonderry.

"DEAR SIR,—From various causes I have been unable to reply to your note sooner. It was with feelings of astonishment, perhaps equal to your own, that I read it, inasmuch as I could not have believed possible, what I found a few days after I received it to be the fact, viz., that Mr. Bowen had actually engaged a gentleman (as he said) 'much older than myself (between forty and fifty), and a person of great experience.' There is nothing that I could have regretted so much, as I would have been content almost to forego half my salary in preference, so well did I like the children. In fact, I found teaching quite a pleasure with them. One of the boys, however, is most careless, and will scarcely learn or attend to anything, and though fourteen years old, can scarcely spell the simplest word, and reads most abominably. Now, there is a regular routine of business every day, and therefore, of course, nothing can be attended to that is not included therein; and yet, one morning at breakfast, when this boy missed a word that he, Mr. B., happened to ask him to spell, he began afterwards to speak to me about not teaching him things which were quite incompatible with the course which was laid down for us to pursue (which, to say the least of it, seemed rather unreasonable). This, however, is but a single instance

out of many. It appears as if a tutor were expected even to find capacities, intellects, and memory, as well as application, attention, and industry for his pupils. Of course, such expectations must, naturally, be disappointed. On talking over the matter with Mr. Bowen, lately, another cause of misrepresentation and dissatisfaction transpired, viz., that he suspects me, apparently, of being a *Dissenter*; and, speaking of my predecessor, he said, 'Now, in the *same* way, Mr. Turner, he seemed to have no religion, as he was always going about among those Dissenters' (as if meaning that I had done the same). Now, what do you think of that? It certainly appeared to me to savour slightly of intolerance. As to a 'settlement for some years,' it had, indeed, never been mentioned, but I had considered it an understood thing till next Summer, at all events. I will, most probably, be in Dublin on Saturday morning by half-past five, A.M. though, perhaps, it would be better to wait until after Sunday in Derry. The porters have nothing to do with our rooms, but if you would be so good as to ask for Mrs. Scully (the mother of the person that attended me), who is generally to be seen about the courts, perhaps you would have the kindness to settle with her about it, as I think that would be the best arrangement. You may remember having seen her son in my rooms the evening I left them. Please let me know if you can manage it: If you could write to-morrow (Tuesday) I would get it on Wednesday, otherwise it might be too late, as I don't think it likely they will send into Derry on Thursday. Yesterday I heard an old Presbyterian Minister (Mr. Craig) preach, who after Service shook hands with me, asked my name, and introduced all his family to me. Remember me kindly to Mrs. Stokes and the children. I have applied for a situation, advertised in *The General Advertiser* of the week before last, referring (among others) to Mr. Bowen, who is to give me a certificate or testimonial. I may, possibly, have an answer on Wednesday. Regretting exceedingly the leaving such amiable children, I remain,

"Yours, truly, in haste,  
"HENRY W. MATHEW.

"P.S.—Perhaps you would let Dr. Harty know this. I am going to write to him also."

*Statement and Order to be annexed to the Medical Certificate authorising the Reception of an Insane Person.*

"The Patient's true Christian and Surname, at full length, . . . . .	}	Henry William Mathew.
The Patient's Age. . . . .		Twenty-four years of age.
Married or Single, . . . . .		Single.
The Patient's previous occupation, (if any), . . . . .	}	Student, Sizar, T. C. D., and Scholar.
The Patient's previous place of abode, . . . . .		College, and Derry.
The Licensed House, or other Place (if any,) in which the Patient was before confined, . . . . .	}	None.

Whether found Lunatic by Inqui- } No.  
sition, and Date of Commission, }  
Special Circumstances which shall  
prevent the Patient being sepa-  
rately examined by two Medical  
Practitioners, . . . . .  
Special Circumstances which exist  
to prevent the insertion of any  
of the above particulars . . . . .

"N.B.—If any Quere in the Memorial is incorrectly or insufficiently answered it will be returned."

"GENTLEMEN,—Upon the authority of the above Statement, and the annexed Medical Certificates, I request you will receive the said Henry William Mathew as a Patient into your House.

"I am, Gentlemen,

"Your obedient Servant,

"Name, . . . . . ROBERT STOKES,  
Occupation, (if any,) . . . . . *Education Office.*  
Place of Abode, . . . . . *57, Mountjoy-street.*  
Degree of Relationship, (if any,) } *None.*  
to the Insane Person, . . . . . }

"To the Governors of St. Patrick's Hospital, Dublin."

"Agreed to.

"ROBERT SHAW,  
"Chairman."

*Medical Certificate.*

"I, the undersigned, hereby certify, that I *separately visited*, and personally examined, Henry William Mathew, the person named in the annexed Statement and Order, on the Thirty-first Day of January, One Thousand Eight Hundred and Fifty-one; and that the said Henry William Mathew is of *unsound mind*, and a *proper person to be confined*.

"(Signed) Name, . . . . . JOHN MOLLAN.

Physician, Surgeon, } *Physician.*  
or Apothecary, . . . . . }

Place of abode, . . . . . *Upper Gloucester-street, Dublin*

"I, the undersigned, hereby certify, that I *personally visited*, and examined, personally, Henry William Mathew, the person named in the annexed Statement and Order, on the Thirty-first Day of January, One Thousand Eight Hundred and Fifty-one; and that the said Henry William Mathew is of *unsound mind*, and a *proper person to be confined*

"(Signed) Name, . . . . . WILLIAM HARTY, M.D.

Physician, Surgeon, } *Physician.*  
or Apothecary, . . . . . }

Place of Abode, . . . . . *Upper Gardiner-street."*

"It is requested the following Queries may be accurately answered:—

- |  |   |  |
|--|---|--|
| 1.—How long ill ? . . . . .  | } | <i>Excitement, recent, after melancholic depression.</i>   |
| 2.—Probable cause of illness ?   |   | <i>Disappointment and indolence as to body.</i>  |
| 3.—Species or character of disease ? . . . . .   | } | <i>Excitement after depression.</i>  |
| 4.—Religious persuasion ? . . . . .  |   | <i>Established Church of England and Ireland.</i>  |
| 5.—Whether ill before, and how often ? . . . . .   | } | <i>Had been depressed, but never previously excited.</i>   |
| 6.—Whether subject to any other complaint ? . . . . .  |   | <i>No.</i>   |
| 7.—"Whether subject to epilepsy or paralysis ? . . . . .   | } | <i>No.</i>   |
| 8.—Whether predisposed to suicide ? . . . . .  |   | <i>Had talked of it when melancholic.</i>  |
| 9.—Whether any, and what property ? . . . . .  | } | <i>None whatever, except from his Scholarship in T. C. D.</i>  |
| 10.—From what source or sources derived ? . . . . .  |   | <i>Allowance of Thirty Guineas per annum from the Board of T.C.D., so long as his Scholarship lasts. (See Rev. Dr. Sadleir's letter, his tutor.)</i> |
| 11.—Reference to two or more respectable persons who can testify to the amount of income ? . . . . . | } | <i>His tutor.</i>  |
|  |   | <i>To Dr. Harty, who can testify the same.</i>   |

"N.B.—If any Quere is incorrectly or insufficiently answered, the Memorial will be returned."

*Letter of Obligation.*

"In consideration of your having agreed to admit Henry William Mathew into your hospital as a patient, at the rate of £30 per annum, payable by quarterly instalments, in advance, that is to say, on the 3rd day of May, the 3rd day of August, the 3rd day of November, and the 3rd day of February in each and every year, I do hereby for myself, my executors, and administrators, undertake, so long as the said Henry William Mathew shall remain in said hospital, to pay, and duly discharge the said annual sum or stipend of £30, as the same shall become due and payable; and also to provide the necessary supplies of clothing for said patient; and to fulfil all other conditions incumbent on me as security for the said patient, according to the regulations of the said hospital; and also receive and take back the said patient, from the said hospital, in case of recovery, or on the first defalcation in payment of said quarterly instalments, or other breach on my part of the regulations of said hospital.

"Dated this 3rd day of February, 1851.

"WM. HARTY.

"To the Governors of St. Patrick's Hospital, Dublin."

The defendants having closed their case, *Joseph Napier, Esq., Q.C.*, then replied on behalf of the plaintiff, and said—Gentlemen of the Jury, I have in the first place to thank you and his Lordship, which I very sincerely do, on the part of my young and interesting client, for the unremitting attention which you have paid to this case from the beginning. It is one, Gentlemen, of a deeply painful character. It involves consequences to both parties—to my client, who is now, at the last moment, remitted to the rights of nature, and one of the instincts of nature is the duty of self-preservation. The sin of his birth is not his. His character, which you will judge of, has been, under God, of his own formation; to that, in after life, he will have to look. And, Gentlemen, I bless God that the appeal is here made to you in the last resort—to your good sense, to your sound, practical judgment, to your calm reflection as men—on the whole course of what I might call the gentle, blameless life of that young man, on whom, at the last moment, the attempt is made, through the instrumentality of your verdict, to convict him—of what?—of moral insanity—an ignorance of the distinction between right and wrong. When I heard that stated, I own I felt indignation and alarm; for I feel in my own breast, and I think I might appeal to those around me, is there a man in this Court who could lay his hand upon his heart in the presence of that Being who knows the secrets of our hearts, and say, if he were put into that box, and submitted for two days to an inquiry as to the whole history of his life, and having regard also to all the evidence which they might have brought forward—the evidence also which they have, and that which they have not produced—is there a man who could be satisfied that it would be in his power to present, in point of continuous conduct from the very outset, a more blameless, a more innocent, and a more guiltless life? If, Gentlemen, medical persons are to come forward, and upon the opinion they have taken of the young man's circumstances, immure him in a dungeon, the law, certainly, is fair, humane, and merciful in giving him an appeal to the good sense and sound judgment of a jury; and if the question merely were to decide the specific issue between those parties, as to whether, at the time they put him into Swift's Hospital, he was a dangerous lunatic, and that it was necessary to place him (the plaintiff) there for his own protection, I solemnly declare to you, that if I thought that were the issue, I feel I would be insulting your understanding if I were to address you for ten minutes upon that subject. But, Gentlemen, this case presents other aspects and other features. At the last moment, after all the mystery which had hung over his life about the circumstances of his birth and parentage, after this action was brought, after applications and expostulations had been made to Dr. Harty to unfold those circumstances, I admit, if he had then, stung with penitence and remorse, come forward and told the young man what were those circumstances; if he had said, "I have been embittering, unnecessarily, that existence of which I have been the author, and which it was my duty to the utmost to make happy and peaceable;" if he had told him then that he was willing to retrace his steps, and make some provision for him in his after struggles—I say that such

an offer, if it had been made, ought to, and would have been accepted. Therefore, if Dr. Harty has been obliged to come in here at the last moment, and detail the circumstances of his own sins or follies in his former days, and if, for his own preservation, he is obliged to do that, let him not visit that upon my unhappy and afflicted client. Let him not attempt it, moreover, when he can urge nothing but that for which he is himself responsible before God and man; let him not presume in this Court, where my client has fled to the temple of justice, and holds by the horns of the altar, and where no hand can touch him with impunity—let him not dare, upon such evidence as we have heard, to ask you who are fathers,—oh! what meaning there is in that sacred name—not the mere authors of existence, not mere beings without natural or parental love and affection, but men whose stern rebuke, when most severe and mustering all its force, is but the graver countenance of love—to give a verdict against my client. You, Gentlemen, will not listen to such evidence to attempt to deprive my young and interesting client of that which he has made for himself—a character for intelligence and industry, a cultivated and graceful mind, a blameless life: these are all which are left him now. He is now cast adrift; for I aver that he has no parents, he has no home, he has no refuge, but that which he has created for himself, and that noble refuge which, there is something tells me here, your verdict will give him. Mr. Martley made an appeal to you on behalf of Dr. Harty, that you are to look on him as indicted, and that he has a right to a merciful consideration. God forbid that I should presume to deny a merciful consideration; but, Gentlemen, the question you have to try is not a question of mercy to Dr. Harty, it is a question of justice to my client. He claims it, Gentlemen; and mark the different position of the two parties. He all along knew Dr. Harty as one merely who he admits had been kind to him in early life; but as a man who in after-life had paid him few visits, and indulged in severity and remonstrance—who displayed the authority, but never the affection of a parent. Gentlemen, he knew him not for any other characteristic; but Dr. Harty knew the relationship in which he stood to my client; and, therefore, while you have a right to visit, as against Dr. Harty, the relation of parent to child, you would have no right to take into account, as against my client, the relation of child to parent. Dr. Harty and Mr. Stokes—for after all Stokes here is included as being the tool and instrument of Harty, and put forward as the prime mover to commit this outrage against the plaintiff's personal liberty—are called upon to explain the reason why a young man, a Scholar of the University which I have the honour to represent in Parliament, a young man of attainments there, who up to that moment is supposed to be of sane intellect, is placed in Swift's Hospital for a period of seven weeks. Thank God, he had friends who were enabled to call the persons to account, whoever they might be, who committed that gross, audacious, and ruthless outrage upon him. They are asked, Gentlemen, to state under what circumstances they did this. It is a matter of great public concern, because, if it so happen that reading men with over-worked minds, who I admit, with Mr. Martley, are not exempted from this affliction,—perhaps they are the class of persons sometimes most subject



to visitations which give the appearance of disturbed minds, when both body and mind are overworked, when "nature, being oppressed, commands the mind to suffer with the body,"—it is of great public consequence that the principle upon which a man may be taken hold of, entrapped, deluded, and put into a cold cell, and then transferred to companionship with persons of diseased minds—it is, I say, of great public consequence that a jury should state that principle, and that their verdict should impose a true moral restraint upon rude and reckless interference. It is important that you should consider it well, and therefore it is that I think in this case it was not unwise that you have given calm and patient attention to have it all searched out, carefully investigated, in order that the public interests may be protected; for I was surprised when I heard allusion made by Mr. Martley to the case of that eminent man, whose friendship it was a matter of pride that I enjoyed, from early life up to the moment when he was taken from us, when he suggested that it would have been well if some energetic hand had been found bold enough to remove him—where? To Swift's Hospital. James Mac Cullagh taken to Swift's Hospital at any period of his life! I ask, how would that high and sensitive mind have borne, at any moment, the cold, black cell? Would the spirit have survived? I don't say that suicide was better, but that instant death was better than to see the wreck of a noble mind, caused by rash and imprudent conduct, founded upon medical opinion. Now, Gentlemen, I could understand this: I could understand such a suggestion as this, when anything was observed which rational persons would conclude was a deviation from ordinary habits. "This mind wants repose; it requires to be removed from the toils of intellectual labour, and to feel some of the gentler influences of home;" for, after all, perhaps, in the simplicities of Christian life, there may be larger restoring powers than under the superintendence of Mr. Cumming. Those whose labours are connected with the brain require the most delicate treatment, and the greatest regard to those nice springs of action which are amongst the mysteries of our existence; but it is absurd to tell me that the instance referred to is in any way to excuse the proceedings in this case. Then we are told of the poet Cowper; but does not everybody know that the most effectual means used to remove the symptoms of his malady was by engaging him in taming three hares, which form the subject of his admirable poetry? But if, instead of those means having been resorted to, he had been taken to a madhouse and plunged into a cell, that fine mind, which has left us so many delightful marks of genius, would, no doubt, have been lost to mankind. My learned friend also referred to Dr. Johnson. I will not go through this history; but I take my stand upon the admissions that intellectual men—men by whose vast powers the world is largely benefited, are sometimes so over-worked, and their brains so over-tasked, that they require repose, and a gentleness of treatment, and to have their bodies set right by exercise, diet, and those things which bring it to its proper tone. This is the natural and Christian view of this matter, and the one upon which I appeal to you to decide, upon the facts given in the evidence; and I discard all the statements of medical opinions, their books and doctrines, and I appeal

to humanity and the instincts of nature against all these contrivances. Now let us come to the case which is laid in the record, for you must never, for a moment, lose sight of the single question you have to try. After pleading not guilty, the defendants go on to state the circumstances of excuse. They state that on the 31st of January, and for sixty-one days afterwards, he was lunatic, insane, of unsound mind, dangerous, and likely to injure himself, and it was necessary, for his own safety, that he should be restrained. They then go on to state that an application was made to the governors of the hospital to have him admitted and medically treated, and that he was accordingly imprisoned for such time as was necessary for his protection, and no longer. That is the plea; that is the issue to be tried. Now, Gentlemen, they have had, and I am thankful for it, every opportunity of proving that plea. That includes everything that can now be dear to my client; for if he were a dangerous lunatic at the time they shut him up, and if it were necessary for his protection and cure that he should be put in Swift's Hospital, but for such a time only as was necessary—

*The CHIEF BARON.*—The period of the imprisonment is out of the case; the question to be considered is only as to the fact that he was confined.

*Mr. Napier.*—Yes, my Lord, but if it be proved that he should not have been imprisoned so much as one day, then the length of time which he was imprisoned is to be taken into consideration in awarding damages; but the question is, whether, upon the evidence in this case, the plaintiff was a dangerous lunatic, and whether it was necessary for his protection and cure that he should have been placed in Swift's Hospital; that is the question. Now, Gentlemen, the plea in this case is founded, to a certain extent, upon a statute that was passed in 1842, for the regulation of places where insane persons are confined, and for the protection of persons insane, or alleged to be so. It is the 5 & 6 Vict. c. 123. I observe that it specifies the duties of an Inspector; and his duty, when visiting every licensed house, is to inspect every part of the premises, and to see every patient therein, and to inspect the certificate of admission of every patient, and to put in a book a minute of the state of the house and the patients therein.

*The CHIEF BARON.*—Does that apply to anything but licensed houses?

*Mr. Napier.*—The duty of inspection does, but not the medical certificate; and, accordingly, Mr. White was bound to make his inspection for the purpose of giving protection to a helpless person. Then the Inspector is bound, according to the act, to make an entry of the condition of the patients, and the number under restraint, and any irregularity that may occur, and so on. He is to inquire, according to the twenty-first section, concerning the description of the amusement and recreation given; and, by the forty-seventh section, it is enacted, that "whereas it is not intended by this act to give the superintendents of any licensed house, or any person concerned in confining any of her Majesty's subjects insane, or alleged to be so, any justification for doing such proceeding, the respective parties complained of shall be obliged to justify their conduct according to the course of common law, as if this act had not

been made." The forty-ninth section enacts, that these regulations shall not apply to any public asylum supported by subscriptions, except as to the visiting and the inquiries of the Inspector in visiting. So that you perceive it requires the Inspector to go to these institutions, and make a record of the condition of the patients; in every respect to be a guardian over them, and to take care that no person should be in these places under improper restraint. I never wish, as counsel, and never would lend myself to take advantage of my position to do a wilful injury to a public or professional man; but I will comment upon the facts and circumstances, as bearing upon a case, if duties have not been performed, and if my client has suffered, and if the public exigencies have not been satisfied. The Inspector could form no opinion. A young, cultivated scholar, and a gentleman—for a gentleman he is by his own character, by his own exertions—is detained in a madhouse, and a public-Inspector visiting it; but the eminent men who form the medical staff of the institution are not produced, the men to whom he had appealed day by day. They produce the man who was a party to his being taken away, the man who had signed a certificate, with his mind well prepared beforehand by Dr. Harty, after a twenty minutes' examination, to see if he could pump out materials for imprisoning this young man. They took him to the hospital, and the Inspector, who ought to have been there in the discharge of his public duty, as guardian and protector—Dr. Cusack and Dr. Croker ought to be here now to explain these matters—the man who was there, and who could have known nothing of the case, but took it for granted, he said, supposing it not possible that a man would be sent in there upon a medical certificate, the law having provided, in this very act, that, where medical certificates are necessary, two certificates are to be signed by persons who have separately visited the patient—the independent judgment of two medical men, having no communication by which the mind of one could operate on the mind of another; and here we have Dr. Harty, who, when he comes up at the last moment, conscious as he was of the whole life of my client, rests his opinion of his madness, upon what ground? Upon his conduct in Derry—upon two letters—for there was nothing else that he spoke of. He then gets Dr. Mollan, who appears on terms of friendly intimacy with him, who is in the habit of acting for him in visiting prisons, who tells you himself that great reliance is to be placed on the opinion of Dr. Harty, who, of course, informed him that this young man was for so long a time under his guardianship and superintendence, and that he believed him to be mad. He thus brings him to sign that certificate after a twenty minutes' examination, and he comes to that monstrous conclusion of moral insanity—an ignorance of the distinction between right and wrong. We are always able to draw conclusive evidence of moral principle if we trace a man through the course of his life, and can bring up the companions of his school and College days, whom he has attracted to his friendship, even without the advantages of known birth and station; friends and acquaintances who have never left him, and many of whom are here around him panting to hear your verdict upon his case, and who will not desert him for the sin of his father, for there is more goodness after

all in human nature. You will observe that the provisions of this statute were violated, for there was no independent examination by two physicians. There was a medical gentleman, Dr. Joynt, who had been living for some time in the house with the plaintiff, and therefore had considerable opportunity of judging in reference to him. Now if there had been a real, genuine opinion that it was necessary to restrain him in Swift's in 1851, what could be more natural and delicate on the part of Harty, than for himself to abstain from interposing as the signer of one of these certificates. Why then was Dr. Joynt pretermitted? Were the acts of these parties consistent with the belief in their minds that he was a person likely to do injury to himself? They allowed him on Friday, Saturday, and Sunday to go at large, although he had talked, forsooth! about suicide. On Sunday he went to church—a proof of that absence of moral feeling which appears to the sapient Dr. Mollan! He was regular in his religious duty, perfectly correct, moral, modest, and gentlemanlike. What do his early companions say of him to cover and obscure all the honourable history of his after life? I appeal in this part of the case, when they attempt to impeach my client of moral insanity, I appeal to the young men who know him best. Here is a parent, announcing that this young man is his illegitimate offspring, and at the same time prepared to cast him adrift upon the world, to struggle through life's difficulties, and fight life's battle; and this man, this father, has the hardihood in this Court, and in the face of God and man, to endeavour to induce a Jury to come to the conclusion that this young man, this gentle, unassuming, gifted youth, with his highly cultivated mind, with all the records of his life, with his young and interesting companions and friends about him, made by his own good character and that course of conduct which the Providence of God had enabled him to maintain; he has, I say, the hardihood to come into a court of justice, and ask a Jury, upon the evidence of a twenty minutes' conversation with the prepared and saturated mind of Dr. Mollan, to condemn this interesting young man of moral insanity—not of occasional folly, not of imbecility of mind, but the absence of a consciousness of the difference between right and wrong, so that no family would admit him into its circle, no father would allow him to associate with his children, and no Church admit him to officiate as its Minister. Oh! I do hope and believe that Providence has preserved him to be an instrument of much good to his fellow-creatures, and of glory to that God, by whom he has been protected and rescued from oppression. Gentlemen, you never will pronounce my client, by your verdict, to be the victim of moral insanity. We have produced a body of testimony such as I never before heard surpassed in a court of justice. My experience is not so great as that of some of the friends around me; but I did listen with pride and pleasure to the number of young men who came forward upon his behalf, who had associated with him, had been educated with him, and continued their friendship for him to the last moment. The companions of a man are often a good index of his character. There is a wise maxim of the law, *noscitur a sociis*; and if there be a class of companions from whom you might form something of an estimate of

the character, the principles, the affections, and feelings of another, surely it is the young companions of our school-boy days; for they know a great many of the little follies and infirmities that may have occurred; and if those are to be raked up out of their ashes at the last moment, let Dr. Harty tremble, if he endeavour to establish such a doctrine as that. It is not the sins of a man of fifty that we are now discussing, but the infirmity of a boy of seven or eight years of age; and that, forsooth, is to cover and obscure a whole life of honest and honourable industry. I have endeavoured to classify the evidence. Four or five of the witnesses knew him at school. That interesting young clergyman, Mr. Maskerry, knew him at the Luxembourg school, and, when he was in College, was one of his most intimate friends and companions. I find that several of these young men carried on a correspondence with him while he was in Derry. There was another gentleman, Mr. Carey, who knew him in Kilkenny school; but I allude particularly to the evidence of Mr. Hargrave. This gentleman had known him until the very morning of the trial, and he always considered him to be rational in every respect. He had a taste or a talent for music, and this has been brought forward as an indication of insanity. Perhaps the gift was vouchsafed to him as one of those many beautiful and providential compensations, for the deprivation of those domestic endearments that make life happy, and perhaps the attractions of music took his mind away from those reflections upon his solitary and mysterious position, which an intelligent mind, such as his was, was likely to make; he had no home, he had no parents to engage his thoughts; he could not go back to memory, as many of us can, to a period before the founder of our hopes was taken from us: we may sometimes look back to those days of honourable industry and useful labour, which were brightened by the existence of the social circle; we may reflect upon the kind and tender care of those who enabled us to pursue our scholastic duties, those beloved ones, who may now, from "their watch-tower in the skies," observe the struggle which we are making in the battle of life, and may be to us messengers of mercy hovering about and around us, the ministers of comfort, consolation, and peace. But my client had no home; he had no parent; you heard one witness, Mrs. Stokes, say that he regarded her as the only mother he had ever known; you heard his generous and affectionate expressions towards her children; you heard of his love for them, and the simple, natural manner in which the overflowings of his waste affections were poured out upon these children. This proved that he had a heart, that he had affections and kindly feelings, which, if cherished and expanded under the genial influence of home, might have ripened into a large and rich maturity. Perhaps this musical taste and accomplishment might sometimes have soothed his mind, and withdrawn it from painful or perplexing reflections. It is clearly shown that, however sometimes he may have been casually depressed, there was no early, permanent cause by which his mind was weakened; we have him in school, studious and attentive; we have his young acquaintances renewing their intimacy with him in the University, and that intimacy has continued down even to the present time. When

we come to the University itself, we produce the Rev. Mr. M'Sorley, who knew him in 1844, when he went to Mr. Flynn's school, for the purpose of teaching, and that school, Gentlemen, is one of the most admirable in Dublin. We don't go to College, Gentlemen, and take a man at hap-hazard to instruct our children; you may, therefore, take it for granted, that he was not a person of loose character, or imperfect attainments. You may conclude that his character was unexceptionable, and his accomplishments solid and practical. In 1849, he appeared in the usual condition of a man who is known to be a hard reader; in the interval between 1844 and 1849, he had some bad health and dyspepsia. He entered College young; he entered it at an early age; he was informed, when he was only nine years of age, that he should go through the world by himself. At the early age of seventeen he goes to the school of Mr. Flynn for the purpose of teaching. He is described in 1849 as looking worn out, but not unhealthy. A young lad acquiring a sizarship at the age of sixteen, having the arduous duty to discharge of maintaining his position in College, with the competition of ambitious and industrious young men, maintaining an honourable course through the University,—do you conceive, Gentlemen, that this could be done without industry, knowledge and study? and mark, Gentlemen, he was at the same time struggling to maintain himself in a condition which would afford him something like a competence. He read to a late hour at night, and when a man does that, Gentlemen, he keeps late hours in the morning. Why, Gentlemen, if lying in bed late be a proof of insanity, a person who saw my learned friend and myself, after sitting up late at night in another place, might have a slight suspicion as to our sanity.

*Mr. Whiteside.*—The only difference is, that in St. Stephen's we are out of the jurisdiction of the mad doctors. (A laugh.)

*Mr. Napier.*—Now with regard to the plaintiff having been disappointed in his scholarship examination, some hints were endeavoured to be thrown out as if something were defective on the part of the plaintiff; and in connexion with this, he could not help saying he did not think the case had been fairly conducted. Any man who knows anything of College studies knows, that of all examinations that of scholarship is the most precarious; and that while a bad scholar may not get the distinction, a good scholar may fail. Well, at the end of 1849, or in the beginning of 1850, his position was naturally that of an exhausted man, young with few tuitions, annoyed, and disappointed; these failures might have acted upon the spirits of this young and friendless man, and when he succeeded was it not natural that he should be worn and exhausted? What did he require? a little relief, a kind friend. The man who felt that he had been the author of his existence might have suggested a little repose and quiet, and given him the means to maintain himself, perhaps till November, and let him go to the country, and remain there till his mind had acquired its usual vigour. However, he read for that scholarship, and no sooner did he get it than he was sent off to the country to enter upon his duties there. Now, before going any farther, I would say a word or two as to the class of young men who gave evidence concerning him while in College. One of them, Mr. Murphy,

a young man of high standing and great intelligence, stated that he knew the plaintiff since 1844, and frequently dined at the table with him; and he did not think there was a more discreet or prudent young man in College. Good God! what are we about here, to have a young man struggling for his bread, and who had the esteem and respect of every one, and to be told that he had no moral feeling, and did not know the difference between right and wrong? Mr. Murphy said, when he saw him in 1849 or 1850, he congratulated him on his success; that he was the last man in College to be thought insane, and that he was prudent, and of an unimpeachable and spotless character. That character was his capital, upon which he would have to launch into the world, and I am persuaded that you will not deprive him of it. Several others, including Mr. Hazlett and Mr. Hall, bore testimony to the propriety of his conduct and character. The Dean of the University, and Dr. Sadleir also, stated that his demeanour was perfectly correct, rational, and gentlemanly; and the chapel porter has proved that his duties, as far as they came under his observation, were duly performed. Now what more could we do than produce those persons with whom he was in the habit of associating, and who had the best opportunities of observing his conduct and habits? and has there been one individual brought forward who could tell you one act of his life at variance with reason and common sense? We have had Dr. Harty and Mr. and Mrs. Stokes; they have had an opportunity of pursuing him every place where he had been since he was flung upon the world up to the present moment, and have they been able to fix upon a single act which would prove his want of moral character? And as he has nothing to depend upon but his character—no relations, no parental care, and must go out upon the world alone, though not for any crime of his own—we have considered it to be our duty to resort to the mass of testimony which has been produced on the part of the plaintiff, in order that it might be all consolidated in the verdict of the Jury, which I trust will be such as to cheer my client on his future path. Besides his fellow-students, we have brought persons from the families in which he had been in the capacity of tutor, and they gave one uniform testimony to his gentlemanly deportment, literary attainments, and everything which constituted character; and without one single act in this young man's life to impeach that character, he is to be condemned as morally insane! In addition to several other witnesses who have had an opportunity of seeing his conduct in private life, was a Miss Bracken. She observed that he went in and out of their house without ceremony, and having conversed with him frequently, she stated his conversation was both interesting and instructive. Then there was a gentleman whose name I believe was Mr. Harris, and he, having seen him after he came out of Swift's Hospital, stated that he was undisturbed in mind, but emaciated in body. Well, there is that body of evidence which has reference to the plaintiff's conduct at school, in College, and while living with families as tutor, and one act of irregularity has not been shown. If he were the son of any gentleman in the city, would he not be proud of him? Would not any of you, Gentlemen of the Jury, who are fathers, be proud if one of your children pursued a blameless and honourable course,

and, by his talents, acquired distinction and friendships, and preserved the companions of his school days as friends in after life. Well, then, it appears that Mr. Bowen had written to Mr. Miller to obtain a tutor for his family, and that Mr. Miller selected the plaintiff, which was of itself a proof that he had satisfied himself that Mr. Mathew was in every way a suitable person; because persons are not in the habit of engaging young men as tutors, until they have made inquiries concerning their character. But at that very time Mr. Mathew was very much exhausted, and worn out with hard reading. Now, observe this journey to the residence of Mr. Bowen. That young man was going away a good deal exhausted, and leaving College, which was then a kind of home, and also Stokes's, where he had, no doubt, been comfortable; and his conduct on the way, and, in fact, all the simple acts of his life, have been turned into acts of insanity. For instance, what occurred yesterday? A witness stated that he came down from the top of the house, with his clothes in a certain way, and that was attempted to be turned into an evidence of insanity, when, in fact, it turned out that he came down stairs, not quite dressed, to look for a sponge-bath, which he had been in the habit of getting in the house of Mr. Bowen. But mark that journey to Derry. The plaintiff stated, in his cross-examination, that he certainly felt rather an indisposition about going; that he was nervous and heated; and that the journey altogether was unpleasant. An incident occurred by the way which was mentioned in Mr. Franks's examination. He was restless in the night, and, a pane of glass having been broken, some people took him into custody: a young man with his slender means, whose father had lent him £5, and got his child's I O U for it, was naturally anxious to husband his resources. He got into an altercation, and was obliged to pay for the glass, and then proceeded inside the coach to Castleblayney. I wish, Gentlemen, that you had seen me the last time I travelled in that direction (laughter). Fatigued, heated, and nervous, the plaintiff arrived at his journey's end. I have been looking into some of the books which have treated of this subject, and one of the most interesting and applicable to the present case is the work of Dr. Cheyne, and I will read for you some passages which strike me as peculiarly illustrative of the state of my client. The following are the extracts from "Dr. Cheyne's Essays on partial Derangement of the Mind in supposed Connexion with Religion" (1843), page 57:—"When the mind has been long and actively engaged—if we may use the term, overwrought—a great dislike, which is sometimes permanent and invincible, may be observed to mental labour of the same nature." In page 94 of the same work he says—"In the third volume, 'The Hygeia,' by Dr. Beddoes, the very curious and well-known case of Dr. Spalding, of Berlin, is quoted, and erroneously referred to mere hurry of ideas preceding epilepsy. On the 31st of January, 1772, he had to speak to many people in quick succession, and to write many trifling memorandums concerning very dissimilar things, so that the attention was incessantly impelled in contrary directions. He had at last to draw out a receipt for interest; he accordingly sat down and wrote the first two words requisite, but, in a moment, became incapable of finding the rest of the words in his memory, or the strokes of the letters belonging to them. He strained his attention to the utmost in en-



deavouring leisurely to delineate, letter after letter, with constant reference to the preceding, in order to be sure that it suited. He said to himself that they were not the right strokes, without being able in the least to conceive wherein they were deficient. He therefore gave up the attempt, and partly by monosyllables, and partly by signs, ordered away the man who was waiting for the receipt, and quietly resigned himself to his state. For a good half-hour there was a tumult in part of his ideas. He could only recognize them for such as forced themselves upon him without his participation. He endeavoured to dispel them to make room for better, which he was conscious of in the bottom of his thinking faculty. He threw his attention, so far as the swarm of confused intruding images would permit, on his religious principles, and said to himself distinctly that if by a kind of death he was extricated from the tumult in his brain, which he felt as foreign and exterior to himself, he should exist and think on in the happiest quiet and order. With all this there was not the least illusion in the senses. He saw and heard everything about him with its proper shape and sound, but could not get rid of the strange confusion in his head. He tried to speak, for the sake of finding out whether he could bring out anything connected; but, however vehemently he strove to force together attention and thought, and though he proceeded with the utmost deliberation, he soon perceived that unmeaning syllables only followed, quite different from the words he wished. He was as little master now of the organs of speech as he had before found himself of those of writing. I therefore," says he, "contented myself with the not very satisfactory expectation that if this state should continue, I should never, all my life, be able to speak or write again, but that my sentiments and principles, remaining the same, would be a permanent spring of satisfaction and hope, till my complete separation from the unfortunate ferment of the brain. I was only sorry for my relations and friends, who, in this case, must have lost me for duties and business, and all proper intercourse with them, and looked upon me as a burden to the earth. But after the completion of the half hour, my head began to grow clearer and more quiet. The uproar and vividness of the strange, troublesome ideas diminished. I could now carry through my process of thought; I wished now to ring for the servant, that he might request my wife to come up. But I required yet some time to practise the right pronounciation of the requisite words. In the first conversation with my family, I proceeded for another half hour slowly, and in some measure anxiously, till at length I found myself as free and clear as at the beginning of the day, only I had a very trifling headach. Here I thought of the receipt which I had begun, and knew to be wrong. Behold! instead of fifty dollars for half a year's interest, as it should have been, I found in as clear, straight strokes as ever I made in my life, *fifty dollars through the sanctification of the bri-*, with a hyphen, as I had come to the end of the line. I could not possibly fall upon anything in my previous ideas and occupations which, by any obscure mechanical influence, could have given occasion to these unintelligible words." Again, in pages 241-42, the following is the description which a young lady of sound religious principles gave of herself:—"After enjoying

about two or three weeks of comparative ease, my comfort is broken in upon by lowness of spirits, without any assignable cause. In waking hours, a drowsiness seizes upon me which I cannot resist, and which is accompanied with complete indisposition for thought or action. My rest at night begins to be broken; I am flushed in the morning, and have a hurried, or rather a flurried feeling, which renders the very thought of occupation distressing; and my views of all subjects, moral or divine, are overspread with gloom: trifles assume an air of importance, and every duty is investd with difficulty." "Such individuals often pass the night in a state of great disquietude from distention and numbness in the arms and legs; from a fidgetty restlessness, which renders every position intolerable for any length of time; from heat of the surface of the body precluding sleep; to which symptoms are added increased depression of mind and horror, together causing a degree of exhausting wretchedness, which, in the morning, leaves the sufferer with a feeling of utter inability to encounter the business of life; and the very unsatisfactory performance of duties justifies the apprehension felt, for with every act there is a degree of irritability mixed up which manifests itself in expressions of petulance and impatience, which again have a recoil in self-reproach; and hence the day is spent in misery equal to the night." Page 239: "Moods of melancholy of which the chief characteristic is hopelessness, are produced in some nervous females by changes in the weather, so that they are unerring barometers. It is attended with inequality of temper, outbreakings of fitfulness, and uncertainty of conduct, and is caused not merely by a disturbed state of the female health, and by atmospheric influence, but *by indigestion* also. Change of air and scene, absence from towns, or from situations in the interior of the country where it commenced, and especially the sea breeze, may be expected to produce a suspension of that hopelessness which has long embittered existence." Now, Gentlemen, you will perceive how analogous the cases here are to the general condition of my client at the times he fell ill. He was overworked, he was weakly, and he was depressed; but was Swift's Lunatic Asylum a proper place for him? No, Gentlemen, he required kind, soothing, treatment, but not a maniac's cell. We do not require medical science to know, that where the body has been overworked, where the stomach is weak, and a party does not keep regular hours, and is not regular in his habits, and where the head acts upon the stomach and the stomach on the head, restlessness, irritation, depression will be produced; but if all the doctors in Ireland were to tell you that these were proofs of insanity, you would not believe them; you would exercise your own common sense. You are, Gentlemen, the keepers of these doctors, and they shall be put by you under moral restraint (A laugh.) The learned gentleman then referred to the two letters which had been so strongly relied upon as evidence of lunacy, observing that it required one to be very cautious in a case of that kind, in judging of a person who had been brought up under such peculiar circumstances, and they should endeavour to place themselves as much as possible in his position, and imagine what he felt, with his sensitive feelings and cultivated intellect, and with the mystery which hung over him about his birth, not knowing exactly who he was, but having got a scholarship, and

being anxious to remain where he might enjoy his College advantages. Then he wrote those letters, which showed a sensitiveness natural in a person so circumstanced; not going to talk to Mr. Bowen, but putting his observations on paper, as people often do who cannot summon up the confidence to speak. Dr. Harty got these letters, and must evidently have supposed that the malady was of a temporary character, for he sent him back again to Mr. Bowen; and what did he write on the second occasion? He complained only of the plaintiff's want of punctuality, and of a sort of sluggishness in the discharge of his duty. Now, that was the description during those subsequent periods in which he was with Mr. Bowen. He could not rouse himself so as to satisfy the family, but in other respects his conduct was most proper. Mr. Bowen then wrote a letter to say that he would have to give him notice to leave. Now, what was Mr. Martley's statement? He said Mr. Bowen would tell them the plaintiff was insane, and a dangerous lunatic; but did Mr. Bowen say a single word which would lead to such a conclusion? He had been asked, who was his medical man? and he replied, Dr. Miller; but his opinion had not been taken. There was a dulness and sluggishness about him which was perfectly compatible with his state, namely, that of bad health: Now, on the 2nd of December, when about to leave Mr. Bowen, he wrote two letters, one to Dr. Harty, and the other to Mr. Stokes, explaining to them that at that time he was unwilling to leave the family with which he was living. He spoke in one of his former letters of his inability to do justice to the children, and in the latter he told how he was losing his situation. The Jury would have an opportunity of reading the letters; I confess I have never read better in my life. In one of them there was a reference to his being found fault with for mixing with Dissenters, which he said he considered savoured of intolerance. Was there anything insane in that? Then what did Stokes do? On the 3rd of December he wrote to the plaintiff, after Mr. Bowen's two letters had been received, directing him to go to Derry to wait for a communication from a person who wanted a tutor. Now, the transactions which occurred in Derry were confidently relied upon, and were, in fact, put forward as the main grounds upon which the plaintiff was placed in Swift's Hospital. Evidence had been produced with regard to Derry, and there was full opportunity of making every inquiry as to the conduct of the plaintiff; but still one act to affect his moral character had not been discovered. A gentleman named Cusack, who saw him there, stated that he considered him perfectly rational, spent evenings with him, and believed him well-informed upon all subjects. Then you will perceive he got into intelligent company in Derry. A gentleman was lecturing on phrenology, and, being anxious to obtain information upon all subjects—not a very usual habit, I believe, with insane persons—he agreed with that lecturer, Mr. Hamilton, to teach him Latin, and to receive in return lessons in phrenology. Mr. Hamilton also agreed to give him a guinea a week for writing characters. Now I ask your protection against the way in which it was attempted to treat my client in this case. While in Derry he endeavoured to add to his stock of knowledge, and also to add to his slender means of self-support. Was there anything dishonourable

in that? You will perceive that he kept an accurate account of his expenditure. Then he accepted that engagement with Mr. Hamilton, though the guinea a-week was never paid, in order that he might be able to pay his father what he had lent him, and get back the I O U. Then he had the evidence of the attorney who was in the house, and also that of Mrs. M'Callless, both of whom stated that he conducted himself like a perfect gentleman. But there was the fact of his having sung a song at the theatre. Now, there was no man in that Court, except a hypocrite, who would denounce that as an immoral act. He was at the time waiting in expectation of a situation, and became acquainted with the organist of the cathedral; he was pressed to go to the theatre, and good-naturedly yielded. It might have been a foolish act, but how absurd was it to put it forward as an act of insanity. How many of us, in our younger days have gone to Donnybrook Fair, but would we like to have all the follies which we might have there committed brought forward in a public court of justice. These were the only things which could be raked up with reference to his stay in Derry, and these were the facts upon which it was attempted to ground the charge of moral insanity. Well, the defendants left him in Derry, and the only person they sent to visit him was that man Hamilton, who gave his evidence on the previous day. Did they write to any medical man to go to see him? or did they write to Mr. Bowen to do so? No; they left him at Derry, and were not able to bring up a single act upon which could be fastened any impropriety, except the singing of the song at a theatre. Stokes then went there to bring him to Dublin; but what occurred in the meantime? Before his return from Derry, Dr. Harty had an interview with Dr. Sadleir, on which occasion he suggested to him that the young man, whom Dr. Sadleir knew nothing of except as to his College character, was deranged in his mind, and requested that the proceeds of his scholarship should be handed over for his maintenance. Dr. Sadleir told him to put his application in writing, and he would have it laid before the Board. A letter was accordingly written, reminding Dr. Sadleir of this promise, and asking for the means to place the plaintiff at Swift's Hospital, at £31 10s. per annum, and stating that he might not be long in the hospital, as his malady was recent. Dr. Sadleir replied, saying that the sum required would be given as long as the scholarship would last. On the arrival of the plaintiff in Dublin he saw Dr. Harty, who represented to him that the Board of Trinity College would deprive him of his rooms, and having thus prepared him for what was to follow, he introduced Dr. Mollan, under false pretences, into his presence. It was an unjust and unrighteous thing that Dr. Mollan, whose mind had been influenced by all that Dr. Harty had previously communicated to him, should have been thus brought to judge of the plaintiff. Had a single person from Derry been produced to show that during all the period of the plaintiff's stay there he committed any act inconsistent with the most perfect sanity and propriety, with the single exception of his singing at the theatre? Well, Dr. Mollan was introduced as coming from Dr. Sadleir of Trinity College, and Dr. Harty said to the plaintiff, "You must now convince Dr. Mollan that you are neither a fool nor a madman;" and the plaintiff, apprehending that there was a possibility

of his being deprived of that which was his last refuge, I, Gentlemen, can very well understand his not wishing to conceal anything from Dr. Mollan. Dr. Mollan spoke about having asked the plaintiff concerning certain acts of indiscretion or vice; he said that before he saw him at all he entertained certain suspicions; and, then, that he came to the conclusion that there was an absence of moral feeling on the part of the plaintiff. He adverted to what he called secret practices; and when his direct examination had closed, he had decidedly left an impression that he had derived a knowledge of circumstances showing a continuance of those practices. Now, no effort had been made in the cross-examination of the plaintiff to ascertain whether there had been any secret practices, or whether he had communicated them to Dr. Harty, or anything at all about them. The Jury would remember how the counsel for the defence put some letters into the hands of the plaintiff, and required him to admit them to be in his handwriting, and they would not afterwards allow him to explain them: by such dexterity on the part of counsel, a case was thus given an aspect adverse to the innocent party. But Dr. Mollan was cross-examined; and I anxiously pray your attention to this, there was such a degree of cruelty in throwing out those dark and defiling insinuations against the young man, without a particle of proof as to what time any practices prevailed, nor did he fix any precise period. Why was not Dr. Mollan anxious to fix the period? Should he not have ascertained when, and to what extent, any practices existed, if ever they existed at all, when he had said that an admission made by the plaintiff without shame was a ground upon which he came to the conclusion as to his want of moral feeling? Had Dr. Harty said that they were an element in the opinion which he formed? No; and yet they had endeavoured to fasten those imputations upon the young man, without having asked himself a single question as to whether anything of the kind had ever occurred. It was an indecent thing thus to poison the public mind with such allusions. The Jury, however, dealing fairly and honestly with the case, upon their own responsibility, would show the public, by the damages which they would give, what their opinion of it was. If the communications made to Harty were to be put in mitigation of damages—which, in fact, was an admission that damages were to be given—and if the man who knew the plaintiff was his child, who himself did not venture to affirm any one act of him that affected his moral character, came up to throw out suggestions of that kind to take away the reputation of his offspring, and add to that sorrow and suffering which had been caused by his own sin, and the disparagement of his birth, in God's name let them leave him his character; he has earned it dearly; do not let them deprive him of it; that young man, of whom I here repeat that in my conscience I believe there is not a man in the Court, not from the judge whom I revere, to the friends around whom I respect, who could present, as in the sight of Him who reads all hearts, a more simple and virtuous record of a youthful life (applause). It has been alleged that there were two periods at which the plaintiff manifested symptoms of insanity—one of these being 1847; and the defendant, Stokes, has told you that Mr. Mathew was treated as insane in that year.

It was one thing to be treated as insane, and another thing to be insane. You have been told that he was ill in 1846, and took his name off the College books, because he found that his studies were injuring his health, but that he replaced it upon them in the following April; that he went to Stokes's house in June, 1847, and remained there; and then, we had all that about wringing his hands and talking of suicide, and yet, when we come to sift it, what did it amount to? He quoted portions of Shakspeare, and talked about the easiest mode of death: and Stokes told you of his remarking that annihilation would be preferable to death. Now, I can easily understand persons depressed with drooping spirits, from a feeling of exhaustion, talking in that way, who had not the least intention of suicide. Very often, as had been well remarked by able philosophers, even when a man's mind was satisfied of the expediency of death, the fear of death, which was implanted in his conscience, would remain, and by its moral restraint control him. But now, at a time immediately following all this about suicide, the plaintiff was left razors, and was allowed to go alone along the banks of the canal, to Phibsborough! Remember, that only one of the servants who were in Mr. Stokes's house at that time had been called; and not one of those strangers before whom Mrs. Stokes had said that the plaintiff used sometimes to talk about the easiest mode of death. But the woman servant who had been examined complained of his not coming down stairs in the morning for a long time after he had been called; was Mr. Stokes watching him shaving, then? They suffered him to go along the canal by himself to Phibsborough,—to go about by himself,—to have razors in his possession; and yet they asked the Jury, against all the inferences afforded by their own conduct, which they could not explain away, to come to the conclusion that it was necessary, for his own personal protection, to put him into Swift's Hospital; although, after he was put in there, it took the keeper of the place more than a week to discover, even with the guidance of the certificate, which must have wrought a predisposition in his mind, any ground or reason on which he could suppose that the young man was incarcerated. They asked the Jury to come to that conclusion, having themselves vilely trumped up a story for the purpose of creating delusion, the characteristic of madness, where there was no delusion, and having tried every contrivance to drive a sane man mad; the father of the young man, acquainted with all the philosophy and science of madness, having tried to fabricate the notion of danger where there was no danger; and yet, notwithstanding all that, the young man having been suffered to go at large for four days previously, to attend at religious worship, and to go to the Botanic Gardens, in company with a medical gentleman whose certificate had not been asked for, and whose absence now, in another country, prevented his being called to give evidence on behalf of the plaintiff. At the Botanic Gardens he conversed rationally and intelligently, and evinced knowledge and cultivation of mind. When he was at church did any one see him muttering to himself? Why there was one of the most distinguished and cultivated men at the bar, his friend, Mr. Whiteside; I have frequently met him talking to himself.

*Mr. Whiteside.*—Oh! no; I always talk to other people. (Laughter.)

*Mr. Napier*, in continuation, commented at length on the facts disclosed by the evidence of the witnesses, to show how the most innocent circumstances were perverted to the purpose of proving the existence of insanity, and how contradictory of any such conclusion the acts of the parties themselves were at the time, and remarked particularly upon the reliance placed on the evidence of the nurse, who had seen plaintiff read—the nurse, that “intellectual sentinel”—and also the grave fact, that this gentleman had asked “what was for dinner,” as if such was a proof of moral insanity! It was monstrous, when they considered the consequences of that issue, to have those things trumped up to mislead the Jury. I never, in my experience, had a deeper feeling of disgust and indignation than at the class of evidence which had been poured forth to them and the public to take away the young man’s genuine character. With regard to Stokes’s evidence, it consisted merely of talk about certain quotations from Shakspeare, and expressions concerning the mode of death. Well, was not that perfectly compatible with his state of health, which he admitted was not good at that time, as was shown by plaintiff’s letters? But this, after all, was a ridiculous piece of evidence; the book containing the soliloquy was in the house, and a young man like the plaintiff, with a cultivated mind, would naturally be looking over it. In opposition to the evidence on this subject, I would set up their own conduct towards the plaintiff, which was inconsistent with a belief on their part that he was insane. The Inspector of lunatic asylums had said, that he formed no opinion as to the plaintiff’s state of mind at the time he saw him in Swift’s, and that he should have seen him several times in order to do so. The keeper of the place could not do it in a week; yet Dr. Mollan, with superior power, had been enabled, by an inspection of twenty minutes, to arrive at a conclusion on the subject. The plaintiff’s conduct, while in the asylum, showed that he had regulated feelings, and was under self-control. He committed no act of violence; his conduct and conversation were perfectly composed and rational, unless when he earnestly remonstrated against his incarceration to those who visited the place, none of whom interfered for him, and none of whom had been produced. They all knew the high character and position of Dr. Cusack, and it was creditable to him that he had not come forward to testify against the plaintiff. If that gentleman believed that Mr. Mathew had been necessarily confined in the lunatic asylum, he would, doubtless, have felt it his duty to his brother physician, Dr. Harty, to come forward and state his opinion to that effect. But the plaintiff being put in there on the certificates of two physicians, every body else assumed him to be mad—that was the way of it. Dr. Mollan conversed with Dr. Harty about him in his carriage; he received the impression from him that he (Dr. H.) knew of the plaintiff having done some dreadful thing in Derry; he had the highest confidence, as he had said, in Dr. Harty’s judgment, and accordingly he was influenced by his opinion. Observe what was one of the most cruel things in this strange case. When the young man was threatened by Dr. Harty with the loss of his rooms in College, and upbraided with being in debt, and with having bailiffs

on the look-out for him—which was false—his very consciousness of innocence, arising from not having committed any moral impropriety, prevented him from being ashamed; but Dr. Mollan concluded that that indicated an absence of moral feeling. The plaintiff supported the reproaches of Dr. Harty in silent indifference, if not indignation—feeling probably his position of dependence upon him, and that he had no redress; he smiled incredulously at Dr. Harty; and all these circumstances, which showed a consciousness of innocence that was perfectly consistent with the evidence in the case, the Jury were called on to interpret as betraying such a want of moral feeling as warranted the conclusion that the young man was a subject for Swift's madhouse! I sincerely hope that the result of this case will be a warning to these doctors. The case was, in that respect, most important and instructive to the public. You will plainly say by your verdict upon the whole of the evidence, whether by a rash inspection of twenty minutes by a doctor, a young man's prospects in life are to be perilled. It was evident from the language of the statute, that in such a case the independent judgment of two physicians concerning the mental capacity of the party was required—that there should not be the slightest concert between them—that their conclusions, separately formed, should converge rather than originate together. Neither Dr. Cusack, nor Dr. Croker had been examined, and asked whether they had had opportunities—as it was their duty to have had—of inquiring into the mental condition of the plaintiff during his confinement in the hospital; men of their respectability and intelligence would have had no object in view but to tell the truth. The opinions which had been screwed out of the witnesses who had been produced were by way of assisting the judgment of the Jury, for you must remember that you are not bound by those opinions at all; the appeal is to your own opinion, formed upon a review of all the facts. I must freely admit that the opinions of medical men might be useful to assist your judgments, provided they had had full opportunities of knowing all the material facts and circumstances of the case; but I ask you, as sensible and rational men, do you consider fidgettiness and restlessness to be symptoms of insanity? Why only look at my learned friend beside me (Mr. Whiteside), and just think how difficult it is sometimes to keep him quiet—how not even his Lordship can restrain him.

*Mr. Whiteside.*—That's a mistake. (A laugh).

*Mr. Napier* went on to say that allusion had been made to Hayden's case. It is not my intention to insult you by drawing your attention to anything that occurred in any other case; but Mr. Martley, in cross-examining the plaintiff, asked him if he spoke while in jail about taking proceedings against Dr. Harty, and his reply was that he made allusion to Hayden's case. In answer to further questions, he said that at that time he had no means to bring an action. Mr. Martley in his speech had said that this was an attorney's action. Your verdict, Gentlemen, will teach the defendants that it is not an attorney's action. No; if an attorney or the young man's friends have enabled him to bring this action, it showed their conviction of the justice of his case, and their feelings of humanity. Dr. Harty has



come forward in open Court with the admission that the plaintiff is his illegitimate son. Let not my afflicted client be blamed for that. Dr. Harty never communicated the fact to him ; the last time the young man asked him for information as to the circumstances of his birth, he promised that he would call on him to speak about the subject, but he never did. He (Dr. Harty) complained now at the last moment, when the recent change in the law has made it almost necessary that he himself should be examined in the case, of his having been obliged to make the admission with shame and contrition. The plaintiff had no previous knowledge of the fact ; he had never had any reason to look upon Dr. Harty, otherwise than as a guardian or person having some authority over him. Dr. Harty has been obliged in his own self-defence, in order to excite sympathy, coming forward in his illness and feebleness, to make the admission in order to deprive my young client of the justice that was due to him, but which I am confident that the Jury will administer by such a verdict as will be an embodiment of their opinion on the facts and circumstances of this case. On the part of my client, I would say that he does not care for the money ; he has other resources—his intellect and independent spirit—to enable him to make his way in life. Mr. Martley has talked about the humble circumstances of Dr. Harty ; you have nothing whatever to do with that. I care not for the money ; but I want from you such a verdict as will inform the public what was the opinion of a responsible tribunal upon the evidence in this case—a verdict which will neutralize the certificate of insanity which has been given against this young man, and will preserve to him, unobscured and untarnished, that character which his own integrity, his own industry, his own intelligence, and his virtuous life have secured to him up to this moment. [*The learned counsel then reverted to the plaintiff's state of health in 1847, and went on to say*] :—I have been very much struck by the following observations on insanity, of an enlightened Judge. Sir Matthew Hale, in his Pleas of the Crown, vol. i. page 412, says :—“ It is not every melancholy or hypochondriacal distemper that denominates a man *non compos*, for there are few who commit this offence (suicide) but are under such infirmities ; but it must be such an alienation of mind that renders them to be madmen or frantic, or destitute of the use of reason.” In fact the only reason for immuring a person in a madhouse is, that he is incapable of self-government ; and the law wisely ordains that a jury, and not medical men, should have the right of pronouncing upon facts, and circumstances, such as those in the present case, where the liberty of the subject is involved. The learned gentleman then read the following section (10) of the 8th and 9th Victoria, chap. 107 :—“ And whereas, by an act passed in the first year of the reign of her present Majesty, intituled, ‘ An act to make more effectual provision for the prevention of offences by insane persons in Ireland,’ it is amongst other things enacted, that if any person should be discovered and apprehended in Ireland under circumstances denoting a derangement of the mind, and a purpose of committing some crime, for which, if committed, such person would be liable to be indicted, it should be lawful for any two justices of the peace of the county, county of a city, county of a

town, city, or town, and liberties, before whom such person might be brought, to call to their assistance any legally qualified physician, surgeon, or apothecary, and if upon view and examination of the said person so apprehended, or from other proof, the said justices should be satisfied that such person was a dangerous lunatic, or a dangerous idiot, it should be lawful for the said justices, by warrant under their hands and seals, to commit such person to the gaol of such county, county of a town, city, or town and liberties, there to be kept in strict custody until or unless such person should be discharged in manner by the said act provided. Be it enacted that it shall not be lawful for the said justices to commit such person to gaol, unless information on the oath of one or more credible witness or witnesses shall have been made before the said justices, stating facts from which it shall appear that such person was discovered and apprehended under circumstances denoting a derangement of mind and a purpose of committing some crime, for which, if committed, such person would be liable to be indicted, and that such person is a dangerous lunatic or a dangerous idiot; and such justices shall, if they shall so think fit, bind the person or persons swearing such information to appear at the next commission or assizes, or general or quarter sessions of the peace, whichever may first occur, which information shall be returned to the clerk of the crown or peace; and the judges presiding at such commission, or the judge of assize, or assistant barrister or recorder, as the case may be, shall, if they shall consider it necessary so to do, examine into the case, and report to the lord lieutenant or other chief governor or governors of Ireland for the time being, whether such person appears to him or them to be a dangerous lunatic or dangerous idiot." That shows you exactly how you are to deal with this case. According to that Act of Parliament, in cases where danger to the public or to the individual is alleged, the liberty of the supposed lunatic could not be interfered with, unless informations were lodged by one or more credible witnesses, stating that the party had been apprehended under circumstances denoting a derangement of mind, and a purpose on his part of committing some indictable offence. Where are the credible witnesses in this case stating facts of that description in 1850? Is Stokes a credible witness? Why has not a single servant been produced who was then in the house? Where are the facts and circumstances deposed to by credible witnesses? There are none. Observe, too, that Foley, whom they represented to the plaintiff as looking after him with bailiffs, has not been produced. When the plaintiff was brought to Swift's, he was perfectly quiet, and there was not the least apprehension of any danger either to himself or to others. Their plea is that he was put in there for protection, care, and medical treatment. Medical treatment he got none. He came out of the asylum with his mind undisturbed, but his body emaciated—full of the consciousness of injustice. His conduct there was perfectly rational. He came to College again; ever since he has been perfectly rational; his acquaintances gathered around him and sympathized with him. He brings his action, and the defendant did not disclose anything about his relationship. He comes into Court with unclouded intellect, unblemished character—the only reproach being one for which

he was not responsible ; and he appeals to a Jury to give him shelter and protection, to give a verdict substantial and liberal in his behalf in such a case. He asks the Jury to say if any one fact has been proved which impeached his moral character, or his sanity of mind, and disentitles him to his liberty. The certificate itself, signed by Stokes, the creature of Dr. Harty, describes his symptoms as excitement after depression. Why did not Dr. Harty say in that certificate that he laboured under moral insanity ? On arriving at Swift's he was put into a cell, there being no other place for him. Had Dr. Harty really supposed that there was anything wrong with him, was it not natural to expect that he would have previously provided a private apartment in the institution for his own son, where he would have been treated with kindness, and as a gentleman, and where he would have been in some degree sheltered from the terrible influences of the place. I have been very much struck with the observations which the great Lord Mansfield made in a case of this sort which came before him. [*Mr. Napier read the observations, which were to the effect that "there was no authority in law for private mad-houses ; that they were only permitted through necessity, and that the circumstances connected with the incarceration of persons in them should present no features of hardship or unkindness, but should be indicative of the best motives on the part of those who procured the imprisonment, and should show the most complete necessity for the act."*] My unfortunate client, Gentlemen, is not mad. He has unfortunately much to afflict him—much to make him unhappy in the retrospect of the past. He is, I aver again, fatherless on earth ; he has no home or refuge—nothing to look back to, that memory can rest upon with pleasure or satisfaction, except his own course of life, and his own industry and intelligence. He has a character for you to preserve to him. They have tried to take it from him ; he struggles to keep it ; and you, Gentlemen, will, in this case, give a verdict, I am confident, that will show your opinion upon the whole of the merits, and compensate him for all that he has suffered from the conduct of the defendant. I ask it from you with much confidence—with deep anxiety—under a sense of solemn and deep responsibility—with anxiety that justice may be done for my client, with whom, I admit, I feel profound and earnest sympathy. He looks to you to befriend, to deliver, and protect him ; and you will not deny him that protection—you will do him ample and honest justice. You, Gentlemen, will give him a verdict in this case, that to some extent his memory and future life may rest upon—that may cheer him in his progress when he is reminded of the opinion of those who, having listened to the evidence, and as honourable and just men, with kindly and virtuous feelings, will have pronounced upon the whole of the case. You will give him a verdict, I am confident, that will be worthy of yourselves—worthy of the occasion—worthy of the demerits of the one party, and of the merits of the other—a verdict which, I trust, will set a bow in that cloud that hangs upon his past life, which he has not contributed to darken—a verdict that will be worthy of that law, of which, in the course upon which he has now entered, he may yet read, in the language of the immortal and illustrious Hooker—"Her seat is in the bosom of God ; her voice the harmony of the world. All do her homage ; the least as feeling

her care—the greatest not exempted from her power; all people, with uniform consent, admiring her as the mother of their peace and joy.” (Loud applause.)

At the conclusion of *Mr. Napier's* address, the Jury retired for a few minutes, and upon their re-entering the jury-box the Foreman, addressing the CHIEF BARON, said—My Lord, the Jury have desired me to mention to you, that, upon the evidence in this case, they have fully made up their minds. They would be glad, however, to hear anything upon the law of the case which your Lordship might think it necessary to say.

CHIEF BARON.—Gentlemen, it is absolutely indispensable, not only that I should call your attention to the law touching this case, but also to the evidence which has been given, at least to that part of it which I conceive to be material, and I shall do so shortly.

The Jury having been seated, the Chief Baron proceeded to address them, and said—Gentlemen of the Jury, whatever impression you may have at this moment, or at whatever conclusion you may have arrived upon the subject, concerning which you have still to determine—it is my duty, not only to apprise you of the questions which, in point of law, you have to try, but, likewise to direct your attention to that portion of the evidence, which in my judgment it is most important for you to consider—the more particularly as the case has now occupied a great deal of time, and a great body of evidence has been given in it, which has been fully and ably discussed by counsel on both sides. But it has happened in this case, as frequently happens in others, that a great portion of the evidence given, and a great number of the topics which have been discussed, are wholly beside the questions you have to try, and it is my duty in assisting you (as far as it is in the power of my judgment to do) to come to a correct conclusion, to warn you against treating such evidence and topics as matters which ought to have any weight with you in determining your verdict. Some of those matters, as it appears to me, are wholly immaterial; others are not to be considered, save with the view of weighing the credibility of the evidence. The question you have to try is a narrow one. This action is one of trespass for a wrongful imprisonment. The first question to be decided is, did the defendant actually cause the confinement of the plaintiff. With respect to that issue, however, no difficulty exists: that the plaintiff was imprisoned in an hospital for lunatics, through the instrumentality of the defendant, no doubt or controversy now exists; and, therefore, upon the general issue, formally raising the question, as to whether the act complained of was done or not, it will be your duty to find a verdict for the plaintiff. But that verdict will be useless for the purposes of this trial, unless you also find in the plaintiff's favour upon the question on which the defendant rests his case, in justification of the act done. This brings us to the second question, and which is the serious one for your consideration, namely, whether or not Mr. Mathew, at the time the imprisonment took place, was labouring under such a state of mind as made him dangerous to others, and dangerous to himself, and which required the restraint that was applied. During a portion of the case, you may have been led to suppose that the general conduct of the de-

fendant to the plaintiff was a part of your inquiry. The harshness of the defendant, or his mildness, his neglect, or his care, are not matters into which you have to inquire; you are not at liberty to entertain those considerations either in relation to the plaintiff's state of health, or with a view to the measuring of any damages, to which, in your opinion, he may be entitled. You are not sitting there as arbitrators to adjust equities between father and son; your duty is simply to determine the question already stated—the narrow inquiry, whether at a particular time the plaintiff was labouring under a particular state of mind; and if you are satisfied that he was not in the state represented by the defendant, you have to assess damages for the injury done at that particular time, and at that particular time only. In the first place, you have to determine, whether or not the defendants were mistaken as to the existence of the illness, supposing them to have acted honestly in the transaction. Even though you be of opinion that the illness did not exist, if there were circumstances known to Dr. Harty, which would naturally lead him to the conclusion, that the plaintiff was affected as alleged, and that he and Mr. Stokes acted as they did upon a reasonable belief that the plaintiff was labouring under a derangement of mind, which, if it existed, would justify the act,—these are circumstances which you are at liberty to look to in estimating the damages which you can give to the plaintiff. If, on the other hand, Dr. Harty has, from interested or malicious motives, wantonly and recklessly placed this young man in confinement, without the slightest pretence or colour for so doing, that circumstance may be legitimately considered by you, with a view to enhance the amount of damages. There is no doubt but this young gentleman, during the greater part of the period, with reference to which he has given evidence, presented to his most intimate associates all the appearance of a rational man. The testimony given to that effect is almost overwhelming; on the part of the defendant, however, it is not alleged, that the periods as to which he (the defendant) has given evidence, are the same as those to which such testimony on the part of the plaintiff is applied. It has been proved that persons who, at times, afford all the evidence of being rational and sensible, at other times are quite the reverse, the patients themselves having the power, at times, to conceal their defects. The defendants, in order to establish their case (namely, that at the period of the act complained of, Mr. Mathew was in such a state as called for that act), have applied their evidence to three distinct periods of time—first, in 1847, subsequently in August, 1850, and again immediately before the plaintiff's confinement. Their case was, that traces of the malady exhibited themselves in Mr. Mathew in the year 1847; that they reappeared in the summer of 1850; and that they appeared again in the months of January and February, and immediately preceding his confinement. Some of the testimony on this subject does not rest on memory alone, but on the indisputable acts of the plaintiff himself. Some of those acts again rest upon the testimony of Mr. Bowen, as to whose veracity no doubt can be entertained. As to the first period, viz., between June and November, 1847, the witnesses produced for the plaintiff had not then the opportunity of seeing him. About that time he absented himself from commons, led a solitary

life, and fell into the state of health he has described ; and the first material fact in the case, and on which you will have to consider, is that at that period he stopped for four or five months at Stokes's, during which period he was afflicted with an illness of such a nature, that he was blistered on the head : he certainly during the same period visited one of his College associates and some others, pursuing at the same time, no doubt, his studies. If you believe the evidence of Mr. Stokes and his wife and the other witnesses for the defendants, the result of their testimony, and indeed of the evidence on both sides, would appear to be, that at that time the plaintiff was restless, that he was in the habit of speaking on the easiest mode of death, and of constantly repeating the quotation from Shakspeare which has been mentioned : that would appear to be the result of the evidence on both sides. He was then under the care of a person of great skill, particularly in the treatment of diseases of that nature, and one who now alleges (uncontradicted) that he is the plaintiff's father. In 1850, again, the plaintiff describes himself as being in a restless state, hesitating, and unwilling, on his going to the tuition of Mr. Bowen's ; you have to consider how far a sane mind would be influenced by such feelings in the way the plaintiff was, as regards the same period in 1850 ; and as to one short and distinct part of it, namely, during the journey of the plaintiff from Dublin to Londonderry, you have the clear and distinct evidence of Mr. Franks, which you recollect. If there were nothing else in the case but Mr. Franks's evidence as to the plaintiff's restlessness, and his manner and demeanour on that occasion, it might be easy to reconcile such conduct with the plaintiff's own account of his feelings ; but when you connect the circumstances of that journey with what occurred previously in 1847, they become more important elements for your consideration ? [*His Lordship then took up and read the two letters given above, written at this time by the plaintiff to Mr. Bowen, and read the evidence of the plaintiff on that subject, as also the evidence of Mr. Bowen in detail.*] You have now, Gentlemen, as a duty from which you cannot shrink, to say, yea or nay, whether these letters do not go far to support the credibility of the evidence given for the defendants, and to establish their case ; Mr. Bowen's conduct, on receiving those letters, was such as might be expected from him ; he advised the plaintiff to return without delay to his friends. Dr. Harty says, when he first sees him after his return to Mr. Stokes's, " Don't you see his liver is congested ? " This might have been said in order to dispirit, or because it would be imprudent to reveal to him the real nature of his disease ; or because congestion of the liver was the complaint under which he really laboured. If, during this period, he was again restless and uneasy, as described, and constantly recurring to the subject of death, connecting those circumstances with the letters to Mr. Bowen, it will be a matter for your grave and serious consideration to say whether the plaintiff was not then in a state of mental health dangerous to himself. During the period of his stay in Derry, it is but justice to the plaintiff to observe, that upon testimony that would appear to lay bare the entire of his private life, there does not appear to be the slightest trace of a stain upon his moral character ; although, possibly, the discreetness of a person in his circumstances appearing on

the boards of a public theatre might have been questioned; that, however, is a matter not of very grave import, and the plaintiff appears to have been brought into it reluctantly. He was, whilst there, attracted to phrenology, which some of the wisest men have found an engaging study. These circumstances are only of importance when taken in connexion with the other evidence in the case. He returns to Dublin in January, and this brings us to the two important questions to be considered, viz., whether at that period the plaintiff was in such a state as made him dangerous to himself or others; and, secondly, whether the defendant had such probable cause to believe in the existence of such a state of mind as to justify him in the course he had taken. You will recollect that at this time Dr. Harty had copies of the letters I have read, written by the plaintiff to Mr. Bowen; he also had an account of the plaintiff's journey down to Derry. Dr. Mollan said he founded his opinion upon certain representations made to him, in addition to what he himself saw of the plaintiff; it does not appear in the evidence what these representations were, or by whom made. Dr. Harty says he formed his opinion from his previous knowledge of Mr. Mathew. It was on that account I asked Dr. Mollan, whether, from what he himself saw, coupled with the letters to Mr. Bowen alone (and putting the representations made to him out of his consideration), he would arrive at the same opinion touching the plaintiff's state of health, and he replied that he would. It is therefore for you to say, whether his opinion may not have been more or less warped by the representations made to him by others, and by the consideration of other matters which are not disclosed to you, and whether Dr. White's opinion may not have been influenced in the same way. There was one witness, Thomas Bradner (who was at this time in Stokes's employment), whose testimony is important. [*The learned Judge then read a portion of Bradner's evidence.*]

*A Juror.*—It does not appear that there was any restraint whatever imposed on the plaintiff.

**CHIEF BARON.**—None whatever. It has also been made a matter of just comment, that the two eminent physicians who attend at Swift's Hospital, Dr. Cusack and Dr. Croker, have not been examined. It would have been most desirable to have had the testimony of those distinguished men upon the subject; and it is quite open to you to presume, that if their evidence would support the defendant's case, they would have been produced. The plaintiff, however, as you may perceive, is a person who has great command over himself before strangers and in company. This malady is one that is frequently successfully concealed by the patient; it is not one that can be easily detected by the eye, or be at all times the object of the senses; and it may sometimes, and frequently does for a time, leave the patient altogether free from its influence. From the correspondence itself it would appear that the plaintiff was a person at all times of a wavering mind. [*His lordship then read the letter from Mr. Mathew to Mr. Stokes complaining of the journey to Dublin; also, at the request of Mr. George, the letter of the 7th of August, in which the expression was used, "I shall certainly die or go mad," and expressing his regret that he had not stayed*

*with Mr. Stokes.*] If, on the consideration of all the evidence, you be of opinion that the mental condition of the plaintiff, at the time of his incarceration, was not such as warranted such a step, the only question that there remains for your consideration is, the amount of damages to which he is entitled. Now the only ground (besides those to which I have already alluded) on which you will be enabled to measure the damages, is, the actual injury sustained by the plaintiff; you have no right to punish the defendant, even though you think him punishable; you should award such damages only as will be a proper remuneration to the plaintiff for the injury he has sustained. The being confined on a charge of lunacy which was not well founded, was undoubtedly an injury of a grievous character; calculated to affect most deeply the interests as well as the comfort of the party aggrieved. Juries are at liberty, in such cases, to have regard also to the aggression upon the feelings of the plaintiff, and to recompense him for such, but you are not to pay the slightest regard (and which, indeed, could be only a matter of conjecture with you) to the defendant's ability to pay. In this case, more than any other which I have ever met, I feel it my duty to warn you against allowing your own feelings and sympathies to interfere unduly with your duty. It is almost impossible for any one, who has heard the evidence, has witnessed the demeanour, and listened to the history of this young man, not to feel interested in him beyond measure. In his intelligence, his manner, his conduct, there was everything to attract, and to engage. Beware, then, how you suffer sentiments founded upon anything connected with his personal appearance, demeanour, and merits, to influence you in giving your verdict. Again, an incident has occurred in this case, unprecedented in its character. The person who has been hitherto acting as the guardian, and attending to the education of this young man, who is subsequently charged with his incarceration, turns out to be his own father. A good deal has been said, in the course of the case, of the conduct of Dr. Harty towards the plaintiff; the latter has complained of a harshness and imperiousness in his manner. What better proofs could be given than the plaintiff's own appearance, manner, and demeanour here, that his education, at all events, has not been neglected, and that great care has been bestowed upon him? All the particulars of that care are not before you, nor could they be admitted as evidence; but so many imputations have been thrown out, it is but justice that this observation should fall from me here, namely, that the plaintiff's education appeared to have been so conducted, that I trust he is at this moment competent to perform all the ordinary duties of life; and that, although he may have been labouring under the malady referred to in the commencement of this year, his education is such as will make him an ornament in the society in which he is destined to move. In considering your verdict, it will be impossible for you to leave out of your consideration the position in which the defendant stood towards the plaintiff. If he had not been thus connected with him, if he had been a stranger to whom some other stranger had consigned the care and education of the plaintiff, some suspicion might have arisen in your minds, although there was no evidence to support it, that some



undue and sinister motive had actuated Dr. Hartly, in taking the part he did. If he had been a trustee for some undiscovered or undisclosed property, he might have designed to incarcerate the plaintiff in a place from whence no complaints could be heard; or to have fastened on him, by a continued residence in a lunatic asylum, a charge of mental incapacity, with a view to nullifying the effect of any complaints he might make against the person debaring him from his rights. All that, however, is removed by the evidence here. Dr. Hartly has himself been examined, and the fact of his placing this young man in a lunatic asylum appears to be a thing from which he could have derived no sort of benefit. This was not an act by which he could have gratified any undue or unworthy feeling that I can see, but it will be for you to judge of that; and, in measuring his conduct by the ordinary motives that sway mankind, you will have to ask yourselves whether any motive could have actuated Dr. Hartly, in taking the course he did, but a conviction in his own mind that his son was labouring under this distemper, and that it was necessary for his security to place him under restraint. That that restraint was not intended to be permanent appears from the evidence. Dr. Sadleir had advised the rooms in College to be given up, but Dr. Hartly replied, that he expected the confinement would be but temporary, and the rooms were, accordingly, retained. So many topics foreign to the issue have been discussed, and so much evidence has been given in the case, that I have thought it right to call your attention particularly to the questions you have to decide, and to address those comments to you on the portion of the evidence which is material to the issue, and I now leave the case in your hands.

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The Jury, after a deliberation of about fifteen minutes, found a verdict for the plaintiff for £1000 damages and sixpence costs.

The announcement of the verdict was received with a burst of applause from all parts of the densely crowded Court, and which for some time it was impossible to check.

Counsel for the plaintiff, *Mr. Whiteside, Q. C.; Mr. Napier, Q. C.; Mr. Richard Armstrong.*

Agent, *Mr. W. K. Clay.*

Counsel for the defendant, *Mr. Martley, Q. C.; Mr. George, Q. C.; and Mr. John E. Walshe.*

Agent, *Mr. R. Cathcart.*

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The following letter was written and addressed by the plaintiff to Mr. Hall, from Swift's Hospital. It was inadmissible in evidence, but may with great propriety be introduced here at the close of the proceedings:—

*From Plaintiff to Joseph Hall, Esq.*

“Die 17mo. Kal. Apr.

“De Viâ Sancti Jacobi, juxta Asylum Sancti Stephani.

“Carissimo Jacobo Johanni *Aulæ* Salutem dicit Henricus Gulielmus Mathæus, fraude et injuriâ captivus, huc (in Asylum Decani Swiftii, sive Sancti Patricii) dolis et operâ Medici ‘Αρτῖ allectus!!

“Tibi uni, mi amice et condiscipule, nunc confidere possum, et consilio tuo plurimum egeo. Latine ex consulto scribo (etsi jam diu desuetus), ne hæc epistola fortè in manus alienas incidat. Ne verbum quidem de hâc re alicui dicas (te maxime imploro), nec sinas, ut quisquam te scire suspicetur. Te potissimum oro et obsecro, ut *quam primum* ad me visendum huc venias, et mecum *privatim* colloquendi copiam *præsentem postules*—si hoc agas, mihi gratissimum facies et officio me tibi magis devincies, ac certissimè scio, me *silentio* ac fidei tuæ omninò confidere posse, atque te summâ curâ in hâc re agendâ usurum.

“Ita sentit vetus ac plurimus officiis devinctus amicus.

“Per *beneficium privatum* juvenis devectoris (bearer) clam ad te hanc epistolam demitto.

“*Si eum videris, tibi interroganti respondere, ac te de his rebus aliquid confestim edocere poterit.*

“Vive valeque (*i. e. au revoir.*)

“P.S.—Si locum hunc haud cognoscas, ille te certum faciet.”

On the day but one after the trial the following note appeared in the morning papers in Dublin :—

“*To the Editor of Saunders's News-Letter.*

“SIR,—My name having been greatly mixed up in this case, and placed in a very unfavourable point of view, which I thought I should have full opportunities of explaining, being summoned as a witness for the defence; but as I have been most unfairly kept back from giving testimony in this case, I deem it a matter of justice that you should afford me a public opportunity of briefly explaining my position and connexion with the case. In the first instance, I beg most emphatically to disclaim having ever taken any measures whatever against Mr. Mathew, not even to the extent of sending him an attorney's letter; and that the representation that I had bailiffs to arrest him is entirely false. On the contrary, when Mr. Stokes called on me, and stated that Mr. Mathew was in such a state of health that it was not likely I should ever see him again, and offered me ten shillings in the pound, I at once acceded to the request, and Mr. Stokes obtained a receipt for the entire amount. There was no gentleman visited my establishment I had a higher opinion of for his intelligence, probity, and honour than Mr. Mathew.

“I am, Sir, your obedient Servant,

“MICHAEL FOLEY,

“31, Wicklow-street.

“18th December, 1851.”

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