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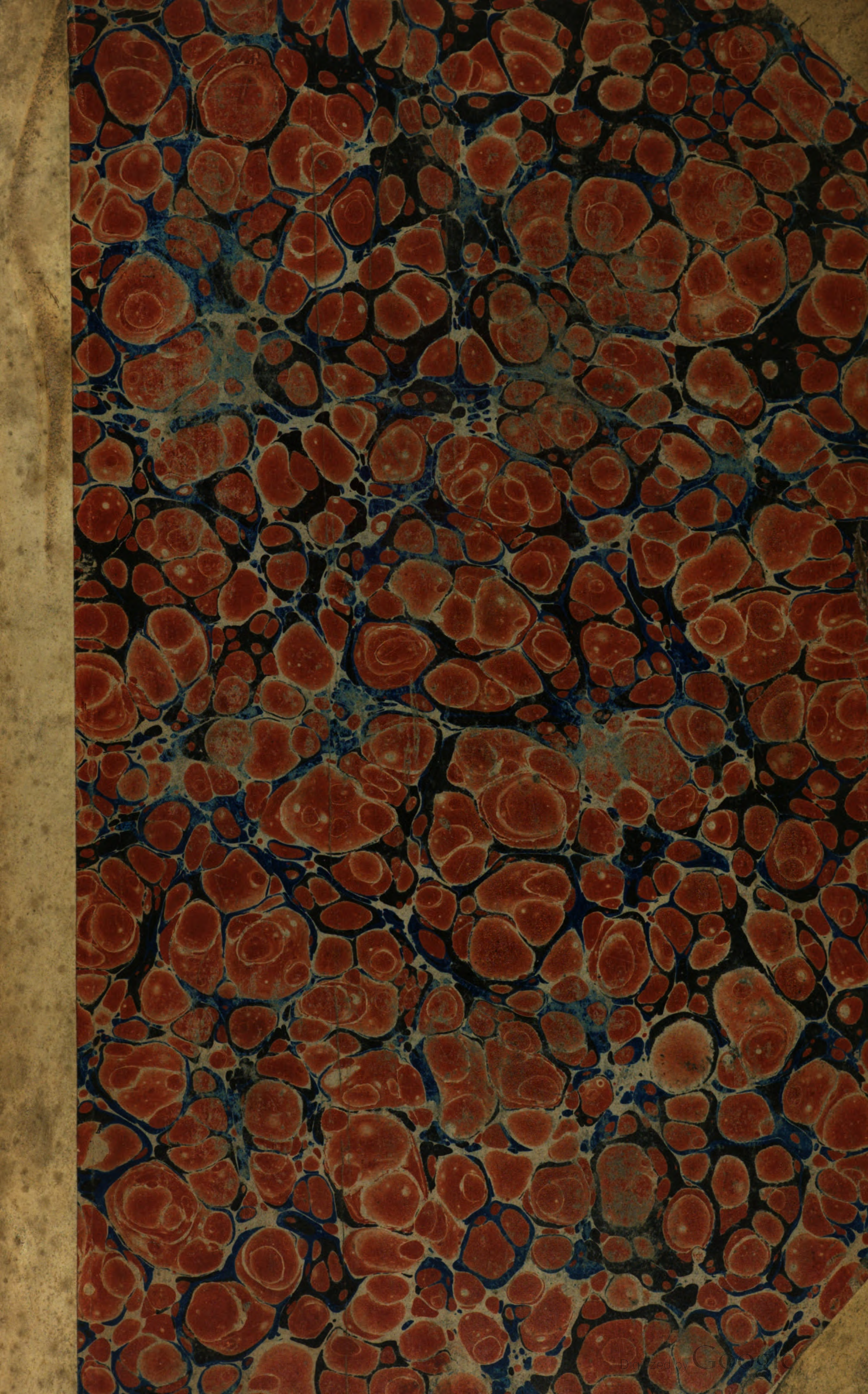
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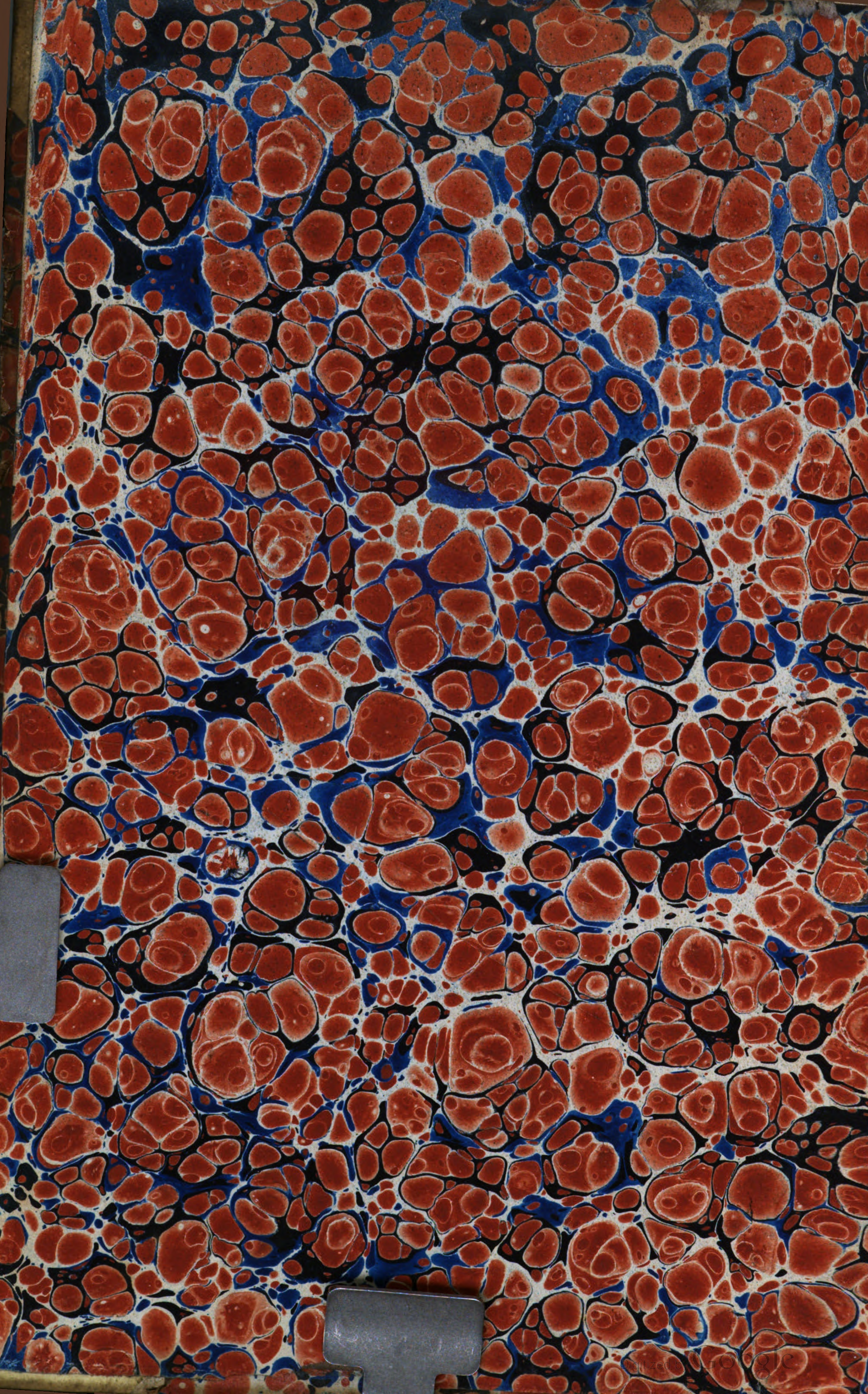
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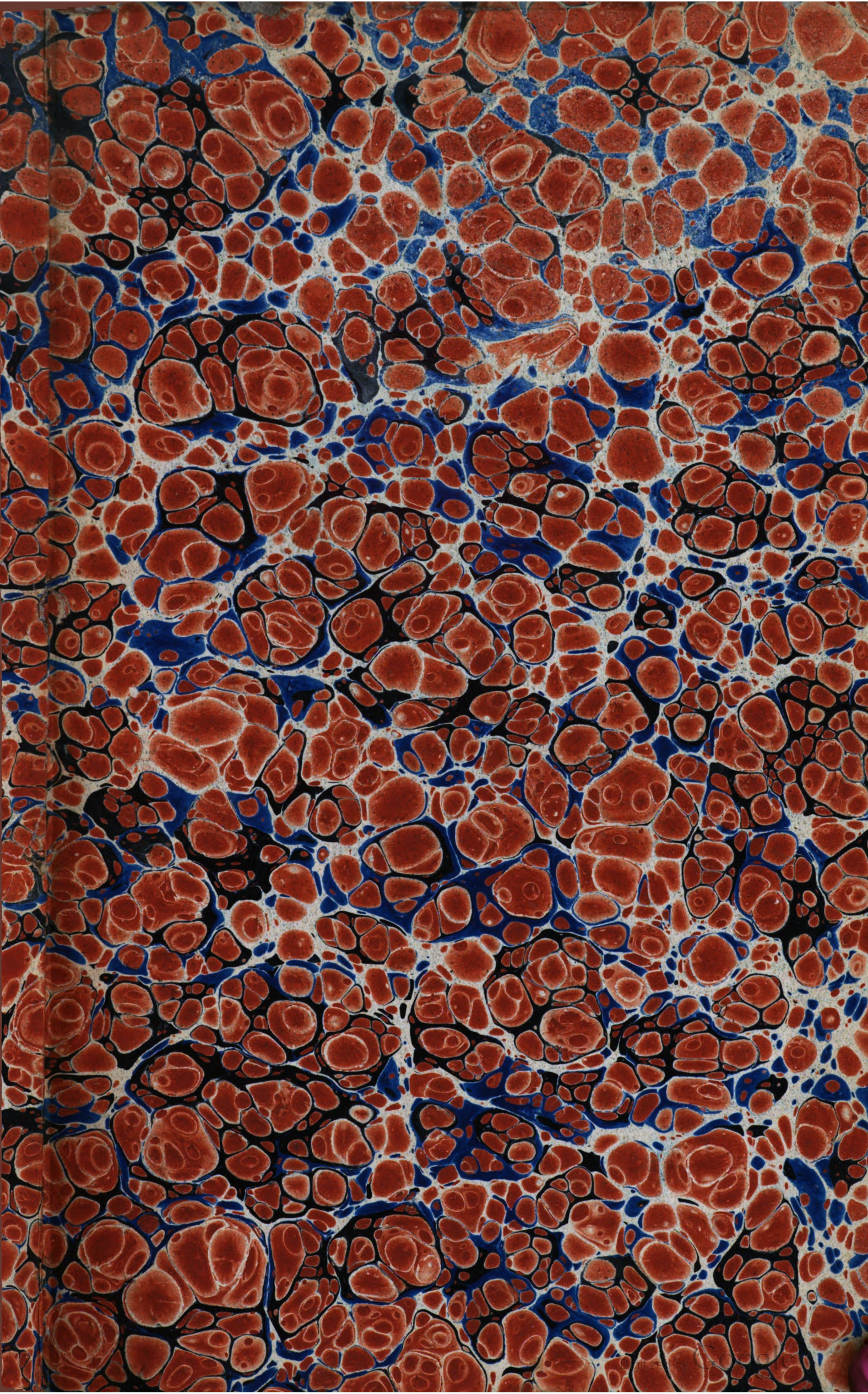
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THE  
**SESSIONAL PAPERS**  
PRINTED BY ORDER  
OF  
**THE HOUSE OF LORDS,**  
OR PRESENTED BY ROYAL COMMAND,  
IN  
THE SESSION 4° & 5° VICTORIÆ,  
(26th January—22d June,)  
AND  
THE SESSION 5° VICTORIÆ,  
(19th August—7th October,)  
1841,  
ARRANGED IN VOLUMES.

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**VOL. XX.**

**EVIDENCE**

BEFORE LORDS COMMITTEES FOR PRIVILEGES, BEFORE THE HOUSE,  
AND OPEN COMMITTEES ON BILLS, &c.,

(One Volume,)

THE SUBJECTS ALPHABETICALLY ARRANGED.

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SUBJECTS OF THIS VOLUME :

*Hastings Claim of Peerage ; Tracy Claim of Peerage.*

*Poor Law Commission, Ireland.*

*Divorce Bills :*

*(Hall's, Larkins's, Shawe's, and Wyatt's.)*

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1841.



EVIDENCE BEFORE LORDS COMMITTEES FOR PRIVILEGES, BEFORE THE HOUSE,  
AND OPEN COMMITTEES ON BILLS, &c.

1841.

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(ONE VOLUME.)

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VOL. XX.



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*Die Jovis, 25° Martii 1841.*

The Earl of SHAFTESBURY in the Chair.

Evidence on the  
Hastings Claim of  
Peerage.

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THE Order of Adjournment was read.

The Minutes of the last Committee were read.

The Counsel and Parties were ordered to be called in.

The Attorney General stated, That he was informed that a Petition had been presented to the House by the Marchioness of Hastings, as Lady Grey de Ruthyn, claiming the Barony of Hastings, and praying that she might be at liberty to attend the Committee for Privileges, and that she might have Time allowed to lay her Case upon the Table of the House; and that he was not aware what Course the House meant to adopt with regard to that Petition.

Sir Harris Nicolas stated, That the Agent for the Claimant had served the Agent of the Marchioness of Hastings with Notice of the Proceedings upon this Claim on many previous Days, and that Notice had been served on the Day before Yesterday of the Proceedings upon this Day, and that the Answer of the Agents had uniformly been that they had received no Instructions.

It appearing that no Counsel or Agent was attending on behalf of the Marchioness of Hastings, the Counsel for the Claimant was informed that he must prove the Notice.

Then Mr. HENRY REVEL HOMFRAY was called in; and having *Mr. H.R. Homfray.*  
been sworn, was examined as follows:

(*Sir Harris Nicolas.*) Have you given Notice to Messrs. Durrant, Stuart, and Maxwell of Gray's Inn, the Agents of Lady Hastings, that the Case was appointed to come on To-day?

I have.

What Answer have you received?

That they had sent the same Notice which I gave them to his Lordship, and that they had no Instructions, and if they received any Instructions they would let me know immediately.

(*By a Lord.*) Upon whom did you serve this Notice?

On Mr. Stuart, of the Firm of Durrant, Stuart, Maxwell, and Company, the Gentlemen who prepared the Petition on behalf of her Ladyship.

(55.)

4 R

(*Sir*

[from (211.) of 1840.]

Mr. H.R. Homfray. (*Sir Harris Nicolas.*) And they received it in the Character of her Ladyship's Agents?

Yes.

(*Mr. Attorney General.*) Do you know that they were the Agents who presented this Petition to their Lordships House?

They stated to me that they were; and they are the Gentlemen that I have communicated with upon the Subject.

(*By a Lord.*) How do you know that they were authorized to act for her Ladyship?

Only from what they told me; and the Minutes of Proceedings of this House are left at their Office for his Lordship, and they appeared for the Petitioner.

The Counsel for the Claimant was informed, That previous to the next Day of Proceeding with this Claim it must be proved that the Marchioness of Hastings had had personal Service.

Sir Harris Nicolas was heard to sum up the Case on behalf of Sir Jacob Astley, Baronet, and Sir William Follett on behalf of Mr. Le Strange.

Proposed to adjourn this Committee to Tuesday the 27th of April next;

Accordingly,

Adjourned to Tuesday the 27th of April next.

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*Die Martis, 27<sup>o</sup> Aprilis 1841.*

The Earl of SHAFTESBURY in the Chair.

THE Order of Adjournment was read.

Evidence on the  
Hastings Claim  
of Peerage.

The Minutes of the last Committee were read.

The Counsel and Parties were ordered to be called in.

Sir Harris Nicolas stated, That their Lordships having been pleased to direct Notice of the Adjournment from the 25th March to this Day to be served on the Marchioness of Hastings, he would call a Witness to prove the Service of such Notice.

Then Mr. HENRY REVEL HOMFRAY was called in,  
and examined as follows :

Mr. H. R. Homfray.

(*Sir Harris Nicolas.*) You are the Solicitor for Sir Jacob Astley?  
I am.

Have you served the Marchioness of Hastings with Notice of the Adjournment of this Committee?

I have.

Did you serve her Ladyship personally?

I did, together with a Copy of the Proceedings on the Claim. This is a Copy of the Notice I served upon her Ladyship.

The same was read as follows :

“ Madam, 18, Margaret Street, Cavendish Square,  
30th March 1841.

“ I beg leave to acquaint your Ladyship that the respective Claims of Sir Jacob Astley, Baronet, and Henry Le Strange Styleman Le Strange, Esquire, to the Barony of Hastings, were proceeded with in the Lords Committee of Privileges on the Twenty-fifth instant, of which I had previously acquainted your Ladyship’s Solicitors, Messieurs Durrant, Stuart, and Maxwell; and that the further Hearing is appointed for Tuesday the Twenty-seventh Day of April next, of which I have the Honour to give your Ladyship this Notice in pursuance of the Direction of the Committee.

“ I have the Honour to be,  
Madam,  
Your Ladyship’s most obedient humble Servant,  
H. R. HOMFRAY,  
Solicitor for Sir Jacob Astley, Baronet, and Henry  
Le Strange Styleman Le Strange, Esquire.”

“ To the Most Honorable Barbara Marchioness of Hastings,  
and, in her own Right, Baroness Grey de Ruthyn.”

The Witness was directed to withdraw.

Mr. Attorney General was heard on behalf of the Crown.

Sir Harris Nicolas prayed, That if, in consequence of the Argument of the Attorney General, any Doubt existed in the Minds of their Lordships upon any Parts of the Case on which the Claim was founded, he might be directed to address himself to those Points.

The Counsel was informed, That if there were any Parts of the Evidence to which he wished to refer the Committee, he was at liberty to do so.

Sir Harris Nicolas stated, That he wished particularly to refer to Two Inquisitions taken on the Death of Isabel (No. 4. on the Pedigree), by which he stated it would appear that she was the Wife of John de Hastings (No. 2.), by her holding in Dower Lands which had belonged to the Husband.

Mr. Attorney General stated, That if it were proved that Isabel held Lands in Dower which were shown to have belonged to Sir John (No. 2.), he admitted that that would be very important Evidence, but that no such Evidence appeared to have been given.

Sir Harris Nicolas stated, That the Inquisition adverted to, namely, one taken at Burbach on the 23d of February in the Ninth of Edward III., was recited in the printed Case; that he had intended to put it in Evidence, and that he had relied upon it in his summing up; but that on reference to the printed Minutes he now found that it did not appear, and he requested the Permission of their Lordships to put in the same.

The Counsel were directed to withdraw.

Proposed to adjourn this Committee to Tuesday next;

Accordingly,

Adjourned to Tuesday next.

---

*Die Martis, 4<sup>o</sup> Maii 1841.*

The Earl of SHAFTESBURY in the Chair.

Evidence on the  
Hastings Claim of  
Peerage.

THE Order of Adjournment was read.

The Minutes of the last Committee were read.

The Counsel and Parties were ordered to be called in.

Sir Harris Nicolas stated, That on the last Hearing it had appeared that a Document which was referred to in the Case of the Claimant, and which was intended to have been put in, was omitted; viz. an Inquisition taken at Burbach on the Death of Isabella de Hastings; that he requested Permission now to put in the same.

Then THOMAS DUFFUS HARDY Esquire was called in; and T. D. Hardy, Esq. having been sworn, was examined as follows:

(*Sir Harris Nicolas.*) What Situation do you hold?  
Assistant Keeper of the Records in the Tower.

Do you produce an Inquisition taken in the Ninth Year of Edward the Third, on the Death of Isabella de Hastings?

I do.

Will you have the goodness to read the same, so far as applies to the Lands she held, the Tenure by which she held them, and who was found to be her Heir?

The same was read, as follows:

Edwardus Dei gr̃a Rex Angl̃ dñs Hib̃ñ t̃ dux Aquit̃ dil̃co sibi Willo Erneys escaetori suo in com̃ War̃ Leyc̃ Notingh̃ Derb̃ t̃ Lañc̃ sal̃m Quia Isabella de Hastynges que de nobis tenuit in capite diem clausit extremū ut accepim⁹ võ mandam⁹ q̃d om̃es t̃ras t̃ teñ de quibz eadem Isabella fuit . . . in dñico suo ut de feodo in balliva ṽra die quo obiit sine dil̃one capiatis in manū ñram t̃ ea salvo custodiri fãc donec aliud inde p̃cepim⁹ Et p̃ sac̃m p̃boz t̃ leg̃ hoīm de balliva ṽra p̃ quos rei ṽitas melius sciri pot̃it diligeñt̃ inquiratis quantum t̃re eadem Isabella tenuit de nob̃ in capite t̃ quantū de aliis t̃ p̃ quod sviciū t̃ quantū t̃re ille valeant p̃ annū in om̃ibz exitibz et quis ppin- quior heres ejus sit t̃ cujus etatis. Et inquisĩcōem inde distincte t̃ apte f̃cam nob̃ sub sigillo ṽro t̃ sigillis eoꝝ p̃ quos f̃ca f̃uit sine dil̃one mittatis t̃ hoc b̃re T. me ip̃o apud Novum Castrum sup̃ Tynam xvij. die Feb̃r̃ anno r̃. ñ. nono.

No. 1.

Leyc̃.

*Inquis̃ capta apud Burbach̃ corā Willo Erneys es̃c̃ dñi Regis in com̃ War̃ Leyc̃ Noī Derb̃ t̃ Lañc̃ xxij. die Feb̃r̃ anno r̃. r̃. E. l̃cii post*

(55.)

4 T

*conquestū*

T. D. Hardy, Esq. conquestū nono virtute b̄ris d̄ni Regis huic inquis̄ consut̄ p̄ sac̄m Joh̄is le Wodeward Willi Durant Joh̄is Durant Willi Palmer Joh̄is Palmer Rōgi Hicheman Alex' Nichol Joh̄is del Grene Willi de Pollesworth Willi le Muister Nichi in le Lane t̄ Rad̄i atte Brugḡ Qui dicūt qđ Isabell de Hastings tenuit die quo obiit man̄ia de Burbache t̄ Barewell in com̄ Leyc̄ in dotem de hereditate Laurencii de Hastings in custodia d̄ni Regis vidz de priore t̄ conventu de Covent̄ p̄ servič̄ uni<sup>o</sup> feod̄ mili<sup>o</sup> Et dicūt qđ est in Burbache unū capital̄ meš̄ qđ nichil valet ult<sup>a</sup> rep'sā domoꝝ. It̄ sūt ibi duo molend̄ v<sup>3</sup> unū aquaticū t̄ unū ventriticū t̄ valēt p̄ aŋm xx. s̄. It̄ sūt ibi viij. ac̄ p<sup>a</sup>ti q̄ valēt p̄ annū xij. s̄. p̄c̄ ac̄ xvij. d̄. It̄ sūt ibi iiij<sup>xx</sup>. ac̄ t̄re arrabit̄ q̄ valēt p̄ aŋm xxvj. s̄. viij. d̄. p̄c̄ ac̄ iiij. d̄. It̄ est ibi quidā parcus cui<sup>o</sup> pastur<sup>a</sup> val̄ p̄ annū ij. s̄. It̄ est ibi quidā boscus q<sup>i</sup> valet p̄ annū xl. d̄. It̄ est ibi de redd̄ liboꝝ nativoꝝ t̄ coterefl̄ p̄ annū xl. li. It̄ est ibi quidā furn<sup>o</sup> qui val̄ p̄ annū v. s̄. It̄ plit̄ t̄ pquis̄ cu<sup>m</sup> valēt p̄ annū ij. s̄. Et dicūt qđ est in Barewell unū capital̄ meš̄ qđ nichil val̄ ult<sup>a</sup> rep'sā domoꝝ. Et est ibi unū molend̄ ventiticū qđ val̄ p̄ annū xij. s̄. It̄ sūt ibi xij. ac̄ p<sup>a</sup>ti q̄ valēt p̄ annū xij. s̄. p̄c̄ ac̄ xij. d̄. It̄ sūt ibi in d̄nico iiij<sup>xx</sup>. ac̄ terr̄ q̄ valēt p̄ annū xxvj. s̄. viij. d̄. p̄c̄ ac̄ iiij. d̄. It̄ est ibi quidā boscus sepal̄ cui<sup>o</sup> pastur<sup>a</sup> val̄ p̄ annū vj. s̄. viij. d̄. It̄ est ibi de redd̄ liboꝝ nativoꝝ t̄ coterefl̄ p̄ annū ix. li. It̄ dicūt qđ plit̄ t̄ pquis̄ cu<sup>m</sup> valēt p̄ annū xvij. d̄. *Et dicūt qđ Laurencius de Hastings est h̄es ejus p̄pinquior t̄ est etat̄ xvj. annoꝝ* In cui<sup>o</sup> rei testimoniū p̄d̄ci ju<sup>r</sup> huic inquis̄ sigill̄ sua apposue<sup>r</sup>t Da<sup>t</sup> die loco t̄ anno sup<sup>a</sup>dic̄i.

Mr. John Baker. Then Mr. JOHN BAKER was called in ; and having been sworn, was examined as follows :

(*Sir Harris Nicolas.*) Do you produce an examined Copy of that Document?

I do.

The same was delivered in.

Sir Harris Nicolas stated, That he would, with the Permission of their Lordships, produce an Inquisition, referred to in Page 30 of the printed Case, taken on the Death of John de Hastings, the Husband of Isabella, showing that he died seised of the same Manors.

(*To Mr. Hardy.*) Do you produce an Inquisition taken in the Sixth of Edward the Second, on the Death of John de Hastings?

I do.

Have the goodness to read it ?

The same was read as follows :

No. 2.

Edwardus Dei gr̄a Rex Angl̄ d̄ns Hib̄n t̄ dux Aquit̄ dilc̄o t̄ fideli suo Joh̄i Abel es̄c̄ suo cit<sup>a</sup> Trentā sal̄m Quia Joh̄es de Hastynges senior qui de nob̄ tenuit in capite diem clausit extremū ut accepim<sup>o</sup> vob̄ mandam<sup>o</sup> qđ om̄es t̄ras t̄ teñ de quibz idem Joh̄es fuit seiš̄ in d̄nico

T.D. Hardy, Esq.

suo ut de feodo in balliva v̄ra die quo obiit sine dilone capiatis in manū n̄ram t̄ ea salvo custodiri fač donec aliud inde p̄cepim⁹ Et p̄ sac̄m p̄boz t̄ leğ hoīm de balliva v̄ra p̄ quos rei veritas melius sciri pot̄it diligent̄ inquiratis q̄ntū t̄re idem Joħes tenuit de nob̄ in capite in balliva v̄ra die quo obiit t̄ q̄ntū de aliis t̄ p̄ quod s̄viciū t̄ q̄ntū t̄re ille valeant p̄ annū in om̄ibz exitibz et quis p̄pinquior heres ejus sit t̄ cujus etatis Et inquis inde distincte t̄ apte f̄cam nob̄ sub sigillo v̄ro t̄ sigill̄ eoꝝ p̄ quos f̄ca f̄uit sine dilōe mittatis t̄ hoc b̄re T. me ip̄o apud Wyndeš xxvij. die Feb̄r̄ anno r̄. n̄. sexto.

(In dorso.) Norff Suff Hunt Beđ Linč Norhč Leyč Warč Somš  
Dorš Midd Saloř t̄ . . . . .

Leycestř.

*Inquis capta coram escaetore d̄ni Regis apud Borbache viij. die Martii anno r̄. r̄. E. sexto sc̄dm tenorem b̄ris huic inquisiçōi adjuncti p̄ sac̄m Robti de Stapleton Willi le Mareschal de ead̄m Willi Underwode de Barewelle Willmi Fraunkeleyn de ead̄m Nichi le Coc de ead̄m Joħis Honyloue de Borb . . . . . Simon Dastoñ de Sharnesford Roḡi Whetebred de ead̄m Robti Jones de ead̄m Willi de Frollesworth Willi Tybēham de ead̄m t̄ Thoñ Feysaunt Qui dicunt sup sac̄m suū qđ Joħes de Hastynge senior tenuit in d̄nico suo ut de feodo die quo obiit man̄iū de Borbache cū p̄tiñ de prioř Coventř in capite p̄ s̄viciū uni⁹ feod̄ militis Itm dicūt qđ est ibiđm q̄ddam meš capitale cū gardiñ t̄ valet p̄ annū iiij. s̄. Itm dicūt qđ sunt ibiđm in d̄nico vj<sup>xx</sup>. acř terř arrabił que valēt p̄ annū xl. s̄. p̄č acř iiij. đ. Sūt ibiđ sexdecim acř p̄ti q̄ valent p̄ annū xvj. s̄. p̄č acř xij. đ. Sunt ibiđ duo parci quoꝝ s̄bbosc⁹ cū h̄bagio valet p̄ annū xx. s̄. Sūt ibiđm duo molend̄ que redd̄ p̄ annū ad fa Sçi Michis t̄ Pasch xx. s̄. eq̄<sup>tr</sup> p̄ man⁹ Robti de Hynkeley Itm dicūt qđ sunt ibiđ de reddiř as̄ libe teñ p̄ annū vij. li. t̄ iiij. s̄. ad t̄ios p̄dços eq̄<sup>tr</sup> Sunt ibiđ in villenagio xxj. virgař terř quaz̄ quelibz virgata terř reddit p̄ annū ad t̄ios p̄dços cū opibz xiiij. s̄. t̄ iiij. đ. et est sm̄ xiiij. li. Sūt ibiđ octo cotereř quoz̄ q̄libz tenet j. cotağ t̄ tres acř terř t̄ reddit per annū ad t̄ios p̄dços sexdecē deñ et est sm̄ xij. s̄. Itm dicunt qđ p̄pinquior hes ip̄ius Joħis est Joħes fil̄ eju⁹ et est etatis viginti sex annoꝝ Itm qđ plita t̄ p̄quisiř cuř cū duobz viš franč plegğ valēt p̄ annū xxx. s̄.*

Barewelle. } *Dicunt & qđ id̄m Joħes de Hastynge senior tenuit in d̄nico  
suo ut de feod̄ die quo obiit man̄iū de Barewelle cū p̄tiñ*  
de d̄co p̄ore Covēř in capite p̄ s̄viciū t̄um pciū uni⁹ feod̄ miliř Itm dicūt qđ est ibiđ unū meš capiř cū quod gardino qđ valet p̄ annū x. s̄. Itm dicūt qđ sūt ibiđ in d̄nico vj<sup>xx</sup>. acř terř arrabił que valēt p̄ annū xl. s̄. p̄č acř iiij. đ. Et sūt ibiđ xvj. acř prati que valēt p̄ annū xvj. s̄. p̄č acř xij. đ. Itm est ibiđm quid̄ parcu⁹ cuj⁹ parci p̄ficuū valet p̄ annū xij. s̄. Itm est ibiđm unū molend̄ qđ valet p̄ annū xiiij. s̄. t̄ iiij. đ. Itm dicūt qđ est ibiđm  
assiš libe teñ vidz ad fa Michis  
t̄ Pasche eq̄<sup>tr</sup> L. s̄. ix. đ. t̄ ob̄. Et sunt ibiđ in villenagio x. virgate  
(55.) terř



*T. D. Hardy, Esq.*  
*Mr. John Baker.*

terř quaz reddit p annū ad t̄ios p̄dcos vij. š. viij. đ.  
Iřm dicūt qđ sūt ibid̄ duo naī q<sup>i</sup> tenēt unam v'gař t̄ ř p annū  
ad p̄dcos t̄ios x. š. Iřm sūt ibid̄ sex coterell̄ quoz q'libet tenet  
j. cotagiū t̄ ř p annū ad p̄dcos t̄ios xvij. đ. et est sm<sup>a</sup> ix. š. Iřm dicūt  
qđ p̄dci libi teñ t̄ naī t̄ coterell̄ tenēt vij<sup>xx</sup>. acř terř de novo assarto  
t̄ ř p q'libz ac<sup>a</sup> ad t̄ios p̄dcos iiij. đ. et est sm<sup>a</sup> iiij<sup>or</sup>. li. Iřm qđ plita  
t̄ pq'sit̄ cuř cū valēt p annū xx. š. Et s<sup>c</sup> est sm<sup>a</sup> tociu<sup>9</sup>  
man̄li de Barewell̄ xvj. li. vij. š. ix. đ. t̄ ob. Et de man̄lio de Borbach  
xxvij. li. In cuj<sup>9</sup> rei testiñ̄ p̄dci juř huic inq'is sigilla  
sua apposuerūt Dař ut sup<sup>a</sup>.

(*To Mr. Baker.*) Do you produce an examined Copy of that Document?

I do.

The same was delivered in.

Sir Harris Nicolas submitted, That the Inquisitions he had put in were amply sufficient, it being found that Laurence de Hastings was Heir of Isabella, the Meaning of which he conceived to be, not that he was Heir of her Body, but of her Lands. But that, to remove all Doubt, he requested Permission to put in another Inquisition, which described Laurence as the Heir to those Manors.

The Counsel was informed, That if he considered the Production of this Inquisition material to his Case, their Lordships would permit the same to be put in.

(*To Mr. Hardy.*) Do you produce an Inquisition taken on the Death of Isabella de Hastings, in the Ninth of Edward the Third?

I do.

The same was read as follows :

No. 3.

Edwardus Dei gr̄a Rex Angl̄ dñs Hibñ t̄ dux Aquit̄ dilčo sibi Robto de Holwelle escaetori suo in com̄ Norff Suff Cant̄ Hunť Essex t̄ Hertford̄ salřm. Quia *Isabella de Hastynge*s que de nob̄ tenuit in capite diem clausit extremū ut accepim<sup>9</sup> vob̄ mandam<sup>9</sup> qđ om̄es t̄ras t̄ teñ de quibz eadem Isabella fuit seisita in dnico suo ut de feodo in ballia v̄ra die quo obiit sine d̄fione capiatis in manū nřam et ea salvo custodi . . fač donec aliud inde p̄cepim<sup>9</sup> Et p̄ sacřm p̄boz t̄ leğ hōim de ballia v̄ra p̄ quos rei v̄itas melius sciri pot̄it diligent̄ inquiratis quantū t̄re eadem Isabella tenuit de nob̄ in capite in ballia v̄ra die quo obiit t̄ quantū de aliis t̄ p̄ quod sviciū t̄ quantū t̄re ille valeant p̄ annū in om̄ibz exitibz et quis p̄pinq̄ior heres ejus sit t̄ cujus etatis Et inquisiçõem inde distincte t̄ apte fçam nob̄ sub sigillo v̄ro t̄ sigillis eoř p̄ quos fçā fuit sine d̄fione mittatis t̄ hoc bře T' me iřo apud Rokesburgh̄ xvij. die Decembr̄ anno ř. ñ. octavo.

Suff Lydgate t̄ Badmundesfeld̄

*Inquis̄ capta apud Lydgate coram Robto de Holewell̄ esč ãni Regis in com̄ Suff̄ quinto die Julii anno regni Regis Edwardi t̄cii a conquestu nono*

T. D. Hardy, Esq.

nono . . x<sup>a</sup> tenorem bñs dñi Regis huic inquisiçõis inde consuti *per sacrm Ad de Lymmyngge* Henř filii Hugonis Roggi Thurstoñ Roggi Junioris Roggi Le White Galfridi Le Machoun Johis filii Robti Le Shephurde Ad de La Chaumbre Riçi Godale Nichi Fabri Ad Everard t Alani Balle *Qui dicunt sup sacrm suũ qđ Isabell de Hastyngge* non tenuit aliq<sup>s</sup> rras seu teñ in dñico suo ut de feodo de dño Rege in com Suff die quo obiit s<sub>3</sub> dicunt qđ *tenuit die pđco maneriũ de Lydegate in dotem* quod quidm maneñ tenet de dño Rege in capite p sviciũ miliř reddendũ ad castrũ dñi Regis de Norwyco annuatĩ xiiij. s. iiij. d. Est ibidm unũ capitale mesuagiũ quod nichil val ult<sup>a</sup> repriř Iřm sunt ibidm vj<sup>o</sup>. acř tře arrabiř p min<sup>o</sup> centũ unde cc. acř tře jacent . . . . anno ad warecř et in cõi p totũ añ t tũc nichil val et cccc. acř de dcis vj<sup>o</sup>. acř val p añ c. s. pč acř iij. d. et non plus quia tota dca tře jacet in cõi a tempe asportaçõis bladoř usq, fm Anũciaçõis be Marie Item sunt ibidm xxiiij. acř p<sup>a</sup>ti que val p añ xlviij. s. pč acř ij. s. Iř sũt ibidm lx. acř pasture que val p añ lx. s. pč acř xij. d. Item sũt ibidm xxxij. acř pastuř quaz xij. acř val p añ xij. s. pč acř xij. d. et xx. acř val p añ x. s. pč acř vj. d. Iřm dicũt qđ est ibidm quidm parcus cont viij<sup>xx</sup>. acř unde pastuř nichil val p añ ult<sup>a</sup> sustentaçõem ferař et subbosco vix sufficit ad claustrũ dci parci Iřm est ibidem quidm boscus vocat<sup>o</sup> Esthey qui continet iiij<sup>xx</sup>. acř unde xj. acř t dĩ quolř anno posunt amputari de subbosco et val p añ xxiiij. s. pč acř ij. s. Iřm est ibidm quidm ali<sup>o</sup> boscus vocat<sup>o</sup> Suthey continens xl. acř t nulli<sup>o</sup> valoris erit p quinq, añ p<sup>x</sup> futuř eo qđ totũ amputabat hoc anno ante mortẽ pđce Isabell Iřm est ibidm de redd asř p añ iiij. li. xv. s. v. d. ob vidř ad Pasch xlv. s. x. d. ob et ad fm Sçi Michis xlix. s. vij. d. Et sunt ibidm de redd ad Natař Dñi ij. li. pipis que val ij. s. et iiij. li. cimini ad dcẽ tĩm que val iiij. d. Iřm est ibidm unũ molendinũ ventř quod val p añ xvj. s. Iřm diç qđ opa autumpnař ibidm val p añ iiij. li. viij. s. ob et opa aruř ibidm val p añ xij. s. iiij. d. Iřm sunt ibidm divsa avagia que val p añ iiij. s. x. d. Iřm sunt ibidm xxviij. custumař que fac brař de blađ dñi unde factura val p añ ij. s. v. d. Et sunt ibidm v. capoñ de redd p añ ad Pasch que val x. d. pč cuj<sup>o</sup>libet ij. d. Iřm sunt ibidm de redd ovoř ad idm tĩm iij<sup>o</sup>.iiij<sup>xx</sup>. p maj<sup>o</sup> c. que val xiiij. d. ob. q<sup>a</sup>. Plita t pquis cuř ibidm val p añ vj. s. viij. d. *Iřm dicunt qđ pđca Isabell tenuit die quo obiit maneñ de Badmũdesfeld in com pđco similr in dotem* de dño Rege ut de honore de Moungomery p sviciũ iiij<sup>or</sup>. deñ ob p añ ad fm Sçi Petri qđ dicit ad Vinçla Et est ibidm unũ capitař mesuagiũ quod n<sup>l</sup> val p añ ult<sup>a</sup> repriř domoř Iřm sunt ibidm cccxl. acř tře arabiř u . . . cxiiij. jacent quolř anno ad warecř t in cõi p totũ añ t tũc null est inde pfiçm et ccxxvij. de pđca tře val p añ lvj. s. ix. d. pč acř iij. d. et non plus quia jacent in cõi a tpe asportaçõis bladoř usq, fm Anũciaçõis beate Marie Iřm sunt ibidm xviiij. acř p<sup>a</sup>ti que val p añ xxxvj. s. pçii acř ij. s. Iřm sunt ibidm iij. acř t dĩ pastuř que val ij. s. vj. d. pč acř xij. d. Iřm diç qđ est ibidm quidm parcus continens iiij<sup>xx</sup>. acř cuj<sup>o</sup> pastuř n<sup>l</sup> val p añ ult<sup>a</sup> sustentaçõem ferař et subboscus vix sufficit ad claustrũ parci Iřm est ibidm

(55).

4 U

quidm

T. D. Hardy, Esq.  
Mr. John Baker.

quidm boscus vocat<sup>o</sup> Esthey continēs xxx. ac<sup>r</sup> cuj<sup>o</sup> subbosc<sup>o</sup> nichil va<sup>r</sup>  
nec valebit p quinq<sup>o</sup> añ futu<sup>r</sup> quia totū amputabat<sup>r</sup> anno p<sup>r</sup>ito tempe  
p<sup>r</sup>dce Isabe<sup>ll</sup> Itm di<sup>c</sup> q<sup>d</sup> est ibidm de redd<sup>e</sup> assise p añ vj. li. iiij. s.  
viiij. d. ob ad festa Pasch<sup>e</sup> t S<sup>c</sup>i Michis p eq<sup>l</sup> porcōes Itm dicunt q<sup>d</sup>  
est ibid<sup>e</sup> medietas uni<sup>o</sup> molend<sup>e</sup> vent<sup>r</sup> quod va<sup>r</sup> p añ xiiij. s. iiij. d. ult<sup>a</sup>  
repi<sup>s</sup> Opa custuma<sup>r</sup> ibidm va<sup>r</sup> p añ xl. s. Itm aru<sup>r</sup> custuma<sup>r</sup> ibid<sup>e</sup> va<sup>r</sup>  
p añ vj. s. viij. d. Item di<sup>c</sup> q<sup>d</sup> est ibid<sup>e</sup> de redd<sup>e</sup> ad Nata<sup>l</sup> D<sup>n</sup>i iij.  
capo<sup>n</sup> p<sup>r</sup>cii vj. d. et cc. ova ad Pasch<sup>e</sup> que va<sup>r</sup> vij. d. Plita t pquis cu<sup>r</sup>  
ibid<sup>e</sup> va<sup>r</sup> p añ xx. s. cū leta *Dicunt eciam q<sup>d</sup> Laurenci<sup>o</sup> de Hastyngges  
filius Johis de Hastyngges est heres d<sup>c</sup>oz mane<sup>r</sup> p<sup>r</sup>pinquior et etat<sup>e</sup> xvij. añ*  
In cuj<sup>o</sup> rei testimoniū p<sup>r</sup>dci ju<sup>r</sup> huic inquis sigill<sup>e</sup> sua apposue<sup>r</sup> Da<sup>r</sup> die  
loco t anno sup<sup>a</sup>d<sup>c</sup>is.

(To Mr. Baker.) Do you produce an examined Copy of that Document?

I do.

The same was delivered in.

(To Mr. Hardy.) Do you produce an Inquisition taken on the Death of John de Hastings, in the Sixth of Edward the Second?

I do.

The same was read as follows:

No. 4.

Edwardus Dei grā Rex Angl<sup>e</sup> d<sup>n</sup>s Hib<sup>n</sup> t dux Aquit<sup>e</sup> dilcō et fideli  
suo Johi Abel es<sup>c</sup> suo cit<sup>a</sup> Trentā sal<sup>t</sup>m Quia *Jo<sup>h</sup>es de Hastings senior*  
qui de nob<sup>e</sup> tenuit in capite diem clausit extremū ut accepim<sup>o</sup> vo<sup>b</sup>  
mandam<sup>o</sup> q<sup>d</sup> omēs t<sup>r</sup>as t te<sup>n</sup> de quib<sup>z</sup> idem Jo<sup>h</sup>es fuit sei<sup>s</sup> in d<sup>n</sup>ico suo  
ut de feodo in ballia v<sup>r</sup>a die quo obiit sine dilcōe capiatis in manū n<sup>r</sup>am  
t ea salvo custodiri fa<sup>c</sup> donec aliud inde p<sup>r</sup>cepim<sup>o</sup>. Et p sac<sup>r</sup>m p<sup>r</sup>bo<sup>z</sup>  
t leg<sup>e</sup> ho<sup>m</sup> de balliva v<sup>r</sup>a p quos rei veritas melius sciri pot<sup>r</sup>it diligent<sup>r</sup>  
inquiratis qu . . . t<sup>r</sup>e idem Jo<sup>h</sup>es tenuit de nob<sup>e</sup> in capite in balliva  
v<sup>r</sup>a die quo obiit t q<sup>a</sup>ntū de aliis t p quod sviciū t q<sup>a</sup>ntū t<sup>r</sup>e ille  
valeant p annū in omib<sup>z</sup> exitib<sup>z</sup> et quis p<sup>r</sup>pinquior heres ejus sit t  
cujus etatis Et inquis inde distincte t apte f<sup>c</sup>am nob<sup>e</sup> sub sigillo v<sup>r</sup>o t  
sigill<sup>e</sup> eo<sup>z</sup> p quos f<sup>c</sup>a f<sup>r</sup>uit sine dilcōe mittatis t hoc b<sup>r</sup>e T. me ip<sup>o</sup> apud  
Wynde<sup>s</sup> xxviiij. die Feb<sup>r</sup> anno r. n. sexto.

(In dorso.) Norff Suff Hunt Be<sup>d</sup> Lin<sup>c</sup> Norh<sup>t</sup> Ley<sup>c</sup> War<sup>r</sup> Som<sup>s</sup>  
Dor<sup>s</sup> Mid<sup>d</sup> Salop<sup>e</sup> t . . . r<sup>d</sup>.

*Inquis f<sup>c</sup>a coram es<sup>c</sup> d<sup>n</sup>i Reg<sup>e</sup> ap<sup>d</sup> Badmūdisfeld<sup>e</sup> in com<sup>e</sup> Suff<sup>e</sup> xij. die  
Mar<sup>t</sup> anno r. r. Edwardi fil<sup>i</sup> Reg<sup>e</sup> E. sexto p b<sup>r</sup>e d<sup>n</sup>i R<sup>e</sup>. videlt p Walt<sup>m</sup> de  
Clopton Steph<sup>m</sup> de Haukedon Rad<sup>m</sup> de Clopton Ri<sup>c</sup>m de Wyndyso<sup>r</sup>  
Ri<sup>c</sup>m de Hanvile Jo<sup>h</sup>em Londoneys Hen<sup>r</sup> Pane Galf<sup>r</sup>m Partrick Tho<sup>m</sup>  
Maleyn Ri<sup>c</sup>m Maleyn Rob<sup>t</sup>m Milon t Hen<sup>r</sup> Clicum ju<sup>r</sup> Qui dicūt p  
sac<sup>r</sup>m suū q<sup>d</sup> Jo<sup>h</sup>es de Hasting<sup>e</sup> senior tenuit man<sup>r</sup>iu<sup>m</sup> de Badmūdisfeld<sup>e</sup> de  
d<sup>n</sup>o Reg<sup>e</sup> in capite die quo obiit ut de hono<sup>r</sup> Mungome<sup>r</sup> p sviciū socag<sup>e</sup>  
t nich<sup>e</sup> reddit p annū Itē dicūt q<sup>d</sup> in illo man<sup>r</sup>io est unū mesuag<sup>e</sup> cū  
gardi<sup>n</sup> t viva<sup>r</sup> t nich<sup>e</sup> valēt q<sup>z</sup> cust<sup>o</sup> dom<sup>i</sup> excedūt valorē Itē dicūt q<sup>d</sup>  
sūt p<sup>r</sup>tinētes ad d<sup>c</sup>m man<sup>r</sup>iu<sup>m</sup> ccc. . . x. ac<sup>r</sup> t<sup>r</sup>e t valēt p annū sex lib<sup>z</sup> p<sup>r</sup>c<sup>e</sup>  
ac<sup>r</sup>*

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ac̄ iiiij. đ. Itē dicūt qđ sūt in eodem xij. ac̄ p<sup>a</sup>ti t̄ valēt p annū triginta solid̄ p̄c̄ ac̄ ij. s̄. vj. deñ Itē sūt in eod̄ sex ac̄ pasture t̄ valēt p annū sex solid̄ p̄c̄ ac̄ xij. deñ Itē sūt ibid̄ cc. ac̄ bosci đ quibz sūt in parco c. t̄ xl. ac̄ t̄ valet h̄baḡ in eodem simul cū šbbosco sexaginta decem solid̄ p̄c̄ ac̄ vj. đ. Et in forinš boscis lx. ac̄ t̄ valēt p annū triginta solid̄ p̄c̄ ac̄ vj. deñ Itē sūt ibid̄ sexaginta solid̄ de redd̄ assiš p ā p̄cipiend̄ tam de lib̄ teñ q<sup>a</sup>m de custom̄ q<sup>i</sup> dicūt<sup>r</sup> Molmen Itē sūt ibid̄ decem custom̄ đ quibz gsuetud̄ valent p annū triginta tres solid̄ t̄ quatuor deñ p̄c̄ opis oš Itē sūt ibid̄ quatuor custom̄ đ quibz gsuetud̄ valent p annū sex soł viij. đ. p̄c̄ opis oš Itē p̄tinz d̄co mañio medietas uni<sup>9</sup> molenđ t̄ valet p annū viginti solid̄ Itē dicūt qđ p̄quis cuř cum visu francii pl̄ḡ valēt p annū sex solid̄ t̄ octo denar̄ Sm<sup>a</sup> de Badmundesfeld̄ xix. li. ij. s̄. viij. đ. *Itē dicūt qđ tenuit mañiū de Litgate* cū redd̄ quinqz mar̄c̄ in villa S̄ci Eđi de đno ab̄bte S̄ci Edmūdi p šviciū sergaunt̄ essendi senesch̄ de lib̄tate S̄ci Eđi Itē dicūt qđ est in d̄co mañio unū mesuağ̄ t̄ nich̄ valet qz cust<sup>9</sup> doñ excedit valorē Itē sūt ibid̄ vj<sup>c</sup>. ac̄ t̄ valēt p annū x. li. p̄c̄ ac̄ iiiij. đ. Itē sūt ibid̄ xx. ac̄ p<sup>a</sup>ti t̄ valent p annū xl. solid̄ p̄c̄ ac̄ ij. s̄. Itē sūt ibid̄ x. ac̄ pastuř t̄ valent p annū x. solid̄ p̄c̄ ac̄ xij. đ. Itē sūt ibid̄ cxx. acre bosci t̄ valent p annū lx. solid̄ p̄c̄ ac̄ vj. deñ Itē sūt ibid̄ lx. solid̄ de redd̄ assiš t̄ de cōsueť custom̄ p ā Itē p̄quis cuř t̄ viš francii pl̄ḡ valent p annū x. solid̄ Itē est ibid̄ unū molenđ vent<sup>i</sup>ciū t̄ valet p annū xl. solid̄ *Itē dicūt qđ Johes de Hastinğ̄ filius Johis de Hastinğ̄ defuncti est p̄pinquior heres d̄ci Johis t̄ de etate xxxvj. annoz* In cuj<sup>9</sup> rei testiñ p̄d̄ci juř sigilla sua apposuerūt Dať ađ Badm̄ die t̄ anno sup<sup>a</sup>d̄cis.

*F. D. Hardy, Esq  
Mr. John Baker.*

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Sm<sup>a</sup> de Lytgate xvij. li.

(To Mr. Baker.) Do you produce an examined Copy of that Document?

I do.

The same was delivered in.

Sir Harris Nicolas requested Permission to put in an Inquisition taken in the Eighteenth of Edward the Second, on the Death of Aymer de Valence, which was previous to the Death of the Second Wife of John de Hastings, showing that the Isabella who held in Dower the Lands referred to in the Inquisitions which had just been read was not the First Wife.

(To Mr. Hardy.) Do you produce an Inquisition taken on the Death of Aymer de Valence, in the Year 1324?

I do.

The same was read as follows :

*Inquisitio capta apud Tregayr qđ est infra lib̄tatem de Overwent in Wallia p b̄re đni Regis eo qđ Adamarus de Valenč quond̄ com̄ Penbr̄ diem claus̄ extremū p sac̄m Meurič ap P̄h ap Kuyllhyn Joñ ap David ap Kenewick Joruerth ap Wronow Meurič ap Wronow Jevan ap Howel Meurič ap Howel Griffith ap Jevan Maddoc ap David Jevan ap Griffith Wylym ap Wal<sup>?</sup> Run ap Blethyn t̄ Jevañ ap Meurič ap Griffith*  
(55.) *Qui*

No. 5.

T. D. Hardy, Esq.  
Mr. John Baker.

*Qui dicunt sup sacrm suū qđ idem Adomarus nihil tenuit de dno Rege infra libtatem pdcam de Overwent in dominio suo ut de feodo nec alio modo die quo obiit Iťm dicunt qđ dćus Adamarus tenuit maneriū de Tregayr qđ est infra dćam libtatē de Overwent de Johe de Hastyngges dno de Bergeveny p svicium medietatis feodi uni<sup>o</sup> militis faciendū ad castrū de Bergeveny t alibi put alii tenentes dći honoris de Overwent facere tenent<sup>r</sup>. Iťm dicunt qđ dćs Adamarus nihil aliud tenuit infra pdcam libtatem die quo obiit Iťm dicūt qđ aysiamta domoꝝ in dćo manerio cū gardino valent p annū ij. s. ij. đ. Iťm dicūt qđ est ibidm de redd asē liboꝝ tenenciū p annū scilicꝫ in festo Sći Michis xvij. s. q<sup>a</sup> Iťm de redd villanoꝝ p annū ix. s. iij. đ. ođ scilicꝫ in festo Nať D'ni Pasch t Sći Michis Iťm dicūt qđ opa dćoꝝ villanoꝝ valent p annū iij. ođ q<sup>a</sup> Iťm dicūt qđ sūt ibidm ix. acř tře Wall de tře arrabil t valet acř p annū viij. đ. Iťm dicūt qđ sūt ibidm xx. acř tře Wall arrabil t valet acř p annū vj. đ. Iťm dicūt qđ sūt ibidem ij. acř frisć tře Wall t valet acř p annū ij. đ. Iťm dicūt qđ sūt ibid j. acř đi Wall p<sup>a</sup>ti t valet đi acř p annū xvij. đ. t acř vj. đ. Iťm dicūt qđ sūt ibid iij. acř subbosć Wall t valent p annū xij. đ. Iťm dicūt qđ placita t pquis cuř valet p annū iij. Iťm dicūt qđ Johe filius dñi Johis de Hastyngges de Isabella uxore ej<sup>o</sup> que Isabella fuit soror eynetia pdci Adamari est unus hedum ejusđ Adamari t est etatis triginta duoꝝ annoꝝ Et qđ Johanna filia dñi Johis Comyn de Badenah de Joh<sup>a</sup>na uxoř sua q' Joh<sup>a</sup>na fuit alia soror pdci Adamari q' Joh<sup>a</sup>na filia dći Johis Comyn nupta est David comiti de Asseles t est etatis viginti sex annoꝝ cum Elizabeth sorore sua que est etatis viginti duoꝝ annoꝝ sunt simili hedes pdci Adomari videlꝫ Johe filius eynete sororis de medietate et Joh<sup>a</sup>na t Elizabeth de alia medietate In cujus rei testimoniū pdci jurati huic inquisiđi sigilla sua apposuerūt Data apđ Tregayr xij<sup>mo</sup>. die Augusti anno regni Regis Edwardi filii Regis Edwardi octavo decimo.*

(To Mr. Baker.) Do you produce an examined Copy of that Inquisition?

I do.

The same was delivered in.

The Witnesses were directed to withdraw.

Sir Harris Nicolas submitted, That he had now completely established the Pedigree.

The Counsel and Parties were directed to withdraw.

Proposed to adjourn this Committee *sine Die* ;

Accordingly,

Adjourned *sine Die*.

**MINUTES OF EVIDENCE**

GIVEN BEFORE

**THE COMMITTEE OF PRIVILEGES**

TO WHOM

**THE PETITION OF JAMES TRACY, ESQUIRE,**

CLAIMING, AS OF RIGHT,

**TO BE VISCOUNT AND BARON TRACY**

**OF RATHCOOLE,**

TOGETHER WITH

**HER MAJESTY'S REFERENCE THEREOF TO THIS HOUSE,**

**WAS REFERRED,**

*7th May and 18th June 1839.*

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Ordered to be printed 19th March 1841.

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*Die Martis, 7<sup>o</sup> Maii 1839.*

The Earl of SHAFTESBURY in the Chair.

Evidence on the  
Tracy Claim of  
Peerage.

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**T**HE Order of Reference was read.

The Petition of James Tracy, of No. 11, South Street, Grosvenor Square, in the County of Middlesex, Esquire, to His late Majesty, praying that it may be declared and adjudged that the Petitioner is entitled to the Title, Honour, and Dignity of Viscount and Baron Tracy of Rathcoole, together with Her Majesty's Reference thereof to this House, and the Report of Her Majesty's Attorney General thereunto annexed, were read.

The Counsel and Parties were ordered to be called in.

And Sir Frederick Pollock, Mr. Hedley, and Mr. Gibson appearing as Counsel for the Petitioner ;

And Mr. Attorney General appearing on behalf of the Crown ;

Sir Frederick Pollock stated, That as only a short Time could be given to the Case To-day, he would, with Permission of the House, defer his Opening to another Day, and proceed to examine Two Clergymen, who were very anxious to return as soon as possible to their Homes.

Then the Reverend GEORGE SALE PRIOR was called in ; and having been sworn, was examined as follows : *Rev. G. S. Prior.*

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*(Mr. Hedley.)* Who are you ?

I am the Curate of Toddington. I have a Certificate from the Rector of Toddington, who is very old and very infirm, and it would have been impossible for him to have attended without great Inconvenience, and indeed Danger. He is the Incumbent of Didbrooke and Toddington, which are united Parishes.

Do you produce the Parish Registers of Toddington ?

I do ; here is the Register of the Year 1836.

What is the Book you have in your Hand ?

This is the Didbrooke Register, for Hayles and Didbrooke, of the Date of 1686.

*(Mr. Attorney General.)* Is it Toddington cum Didbrooke ?

Toddington cum Didbrooke ; it is Didbrooke cum Hayles, and Toddington cum Stanway, but the Two are united Parishes, and therefore they are in fact One.

But with separate Registers ?

With separate Registers.

(46.1.)

A 2

Are



Rev. G. S. Prior.

Are you Curate of Didbrooke?  
No, I am not Curate of Didbrooke.  
Is there a Curate of Didbrooke?  
There is.

Mr. Attorney General submitted, That as the Witness was not the Curate of Didbrooke, his Evidence was not sufficient with respect to the Registers of that Parish.

Sir Frederick Pollock stated, That he would confine the Question to this Witness to the Toddington Registers, and that he would upon a future Day produce the Clergyman of Didbrooke.

(*Mr. Attorney General.*) Are you aware that this is the Toddington Register?

Yes.

How long have you been Curate of Toddington?

Half a Year. The Register was passed into my Custody, as Curate; and has been in the joint Custody of myself and the Rector during the Time I have been there.

And this, with other Parts of the Register, was handed over to you?

It was in an Iron Chest that is particularly set aside for the Custody of the Registers.

(*Mr. Hedley.*) Do you find in the Register an Entry of the Burial of Elizabeth Tracy, of the 26th of September 1688?

I do.

The same was read as follows :

No. 1.

“ Anno Doñi (88).

“ The Right Hoñble the Lady Elizabeth Tracy died September y<sup>e</sup> 20<sup>th</sup>, and was buried Septemb<sup>r</sup> 26<sup>th</sup>, Anno ðedicť.”

What is the Year?

Anno Domini 1688.

The only Date in the Entry is 1688, but what is the Date of the preceding Entry?

1687.

Have you the Register of the Year 1686?

Yes.

The same was read as follows :

No. 2.

“ Anno Doñi 1686.

“ The Right Honñble John Lord Viscount Tracy died March y<sup>e</sup> 8<sup>th</sup>, and was buried March y<sup>e</sup> 11<sup>th</sup>, Anno ðedicť.”

Have you the Register of the Year 1684?

I have.

Will you read the Entry you find there?

The same was read as follows :

No. 3.

“ Anno Doñi 1684.

“ John, the Son of William Tracy, Esq., and Frances his Wife, was baptized April y<sup>e</sup> 30<sup>th</sup>, Anno ðedicto.”

In

In the same Year have you another Entry?  
Yes.

Rev. G. S. Prior.

The same was read as follows :

“ Anno Doñ 1684.

No. 4.

“ John, the Son of William Tracy, Esq., and Frances his Wife, was buried May the 1<sup>st</sup>.”

Do you find an Entry of a Burial in 1687?  
I do.

The same was read as follows :

“ 1687.

No. 5.

“ The Right Hoñble ye Lady Frances Tracy died March y<sup>e</sup> 20<sup>th</sup>, and was buried March 23<sup>rd</sup>, Anno p̄dic̄t̄.”

Have you an Entry of Baptism in the Year 1690?  
I have.

The same was read as follows :

“ 1690.

No. 6.

“ Thomas Charles, the Son and Heir of y<sup>e</sup> R<sup>t</sup> Hoñable William Lord Viscount Tracy and the R<sup>t</sup> Hoñble the Lady Jane Tracy, was born on Sunday y<sup>e</sup> 27<sup>th</sup> Day of July, about Halfe an Hour after Seaven in y<sup>e</sup> Evening, and was baptized Aug. 3.”

(Mr. Attorney General.) Did you receive the Entry of Burials at the same Time as the Registry of Baptisms?  
It is in the same Book.

(Mr. Hedley.) Do you find an Entry of a Burial in 1707?  
I do.

The same was read as follows :

“ Anno Doñ 1707.

No. 7.

“ The Right Honorable y<sup>e</sup> Lady Jane Tracy died Feb. 25, & was buried Feb. 27.”

Is it signed?  
It is signed “Samuel Jefferis Vic. de Toddington.” It does not form Part of the Entry, I think.

Have you an Entry of a Burial in 1712?  
I have.

The same was read as follows :

“ Anno Doñ 1712.

No. 8.

“ The Right Hoñble William Lord Visc<sup>t</sup> Tracy died Apr. 18, was buried April 19.”

Have you an Entry of a Baptism in 1715?  
I have.

The same was read as follows :

No. 9.

“ William, Son of y<sup>e</sup> R<sup>t</sup> Hon<sup>ble</sup> Thomas Charles L. Viscount Tracy, was born at Stratford upon Avon, August 25, 1715, and baptized there.”

(46.1.)

B

Do

Rev. G. S. Prior.

Do you find an Entry of any Baptism in 1719 ?

I do.

The same was read as follows :

No. 10.

“ 1719.

“ Thomas Charles, Son of y<sup>e</sup> R<sup>t</sup> Hon<sup>ble</sup> Thomas Charles Visc<sup>t</sup> Tracy, was born June 15, & baptiz'd July 12<sup>th</sup>.”

Do you find an Entry of any Burial in 1752 ?

I do.

The same was read as follows :

No. 11.

“ 1752.

“ The Hon<sup>ble</sup> William Tracy, Esq<sup>r</sup>, Son to the Right Hon<sup>ble</sup> Thomas Charles Lord Viscount Tracy by the Lady Elizabeth, was buried April 15<sup>th</sup>.”

Have you an Entry of any Burial in 1719 ?

I have.

The same was read as follows :

No. 12.

“ 1719.

“ The R<sup>t</sup> Hon<sup>ble</sup> Elizabeth Viscountess Tracy was buried Nov<sup>br</sup> 1<sup>st</sup>.”

Have you an Entry of a Burial in 1756 ?

I have.

The same was read as follows :

No. 13.

“ 1756.

“ The Right Hon<sup>ble</sup> Thomas Charles Lord Viscount Tracy was buried June 7<sup>th</sup>.”

Do you find an Entry of a Burial in 1792 ?

I do.

The same was read as follows :

No. 14.

“ 1792, August 18<sup>th</sup>.

“ The Right Honourable Thomas Charles Leigh Lord Viscount Tracy was buried.”

Do you find an Entry of Baptism in 1722 ?

I do.

The same was read as follows :

No. 15.

“ 1722.

“ John the Son of y<sup>e</sup> R<sup>t</sup> Honourable Thomas Charles Lord Viscount Tracy by y<sup>e</sup> Lady Frances was born August 18, and baptiz'd August 26.”

Have you an Entry of a Baptism in the Year 1725 ?

I have.

The same was read as follows :

No. 16.

“ 1725.

“ Robert Pakington, Son of y<sup>e</sup> R<sup>t</sup> Hon<sup>ble</sup> Thomas Charles Lord Viscount Tracy by the Lady Frances, was born August 28, and baptiz'd September 21, 1725.”

Have

( 7 )

- Have you an Entry of a Baptism in 1732?  
I have. *Rev. G. S. Prier.*
- The same was read as follows :
- “ 1732. No. 17.
- “ Henry, Son of the R<sup>t</sup> Hon<sup>ble</sup> the L<sup>d</sup> Viscount Tracy by the Lady Frances, was born January 25<sup>th</sup>, and baptiz'd February 8<sup>th</sup>.”
- Do you find an Entry of a Burial in the Year 1751?  
I do.
- The same was read as follows :
- “ 1751. No. 18.
- “ The R<sup>t</sup> Hon<sup>ble</sup> Frances Viscountess Tracy was buried April 26<sup>th</sup>.
- Do you find an Entry of a Burial in 1791?  
I do, under the Head of Burials in 1793.
- The same was read as follows :
- “ 1793, February 10<sup>th</sup>. No. 19.
- “ The Right Honourable and Reverend John Lord Viscount Tracy, D.D., Warden of All Souls College, Oxford.”
- Have you an Entry of a Burial in 1783?  
I have.
- The same was read as follows :
- “ 1783, Nov<sup>r</sup> 25<sup>th</sup>. No. 20.
- “ Buried the Hon<sup>ble</sup> M<sup>rs</sup> Susanna Tracy, Wife of the Hon<sup>ble</sup> Henry Tracy.”
- Do you find an Entry of a Burial in 1797?  
I do.
- The same was read as follows :
- “ 1797. No. 21.
- “ May 11th. The Right Honourable Henry Leigh Lord Viscount Tracy was buried, Æ. 64.”
- Have you an Entry of a Burial in the Year 1676?  
I have.
- The same was read as follows :
- “ 1676. No. 22.
- “ Mr. Charles Tracey was buried May y<sup>e</sup> 6<sup>th</sup>, Anno p̄dicto.”
- Do you find an Entry of a Burial in 1682?  
I do.
- The same was read as follows :
- “ Anno Doñi 1682. No. 23.
- “ Ferdinando, the Son of Ferdinando Tracy, Esq<sup>r</sup>, & Katherine his Wife, was buried Feb. y<sup>e</sup> 19th, Anno p̄dict<sup>o</sup>.”

The Witness was directed to withdraw.

(46.1.)

Rev. F. E. Witts. Then the Reverend FRANCIS EDWARD WITTS was called in, and having been sworn, was examined as follows :

(*Mr. Hedley.*) What are you?  
I am Incumbent of Stanway ; Vicar of Stanway.

Do you produce the Stanway Registers?  
I do. These are the Register Books of the Parish of Stanway.

Have you an Entry of a Burial in the Year 1761 ?  
I have.

The same was read as follows :

No. 24.

“ 1761.

“ M<sup>rs</sup> Ann Tracy (Relict of John Tracy, Esq<sup>r</sup>.) was buried October y<sup>e</sup> 28<sup>th</sup>.”

Do you find a Burial in the Year 1729 ?  
I do.

The same was read as follows :

No. 25.

“ 1729.

“ Maij — Ferdinando, Filius Johannis Tracy, Armigeri, sepultus, p. iii<sup>o</sup>.”

Have you an Entry of a Burial in 1729 ?  
I have.

The same was read as follows :

No. 26.

“ 1729.

“ Maij — Gulielmus, Filius Johannis et Annæ Tracy, Armig<sup>r</sup>, sepultus, xvii<sup>o</sup>.”

Do you find an Entry of a Baptism in 1721 ?  
I do.

The same was read as follows :

No. 27.

“ 1721.

“ Jan. — Gulielmus, Filius Johannis Tracy, Armigeri, baptizatus, viiii<sup>o</sup>.”

(*Sir Frederick Pollock.*) Did you know the last Viscount Tracy ?  
No.

Or his Family ?  
His Family I have known ; his Descendants.

Do you know whether he left any Issue Male ?  
I have always understood not.

(*Mr. Attorney General.*) By his Descendants you mean the Children of Lord Sudely ?  
The Children of Lord Sudely.

The Witness was directed to withdraw.

Then

Then ALFRED HYDE CLARKE was called in; and having been Alfred H. Clarke.  
sworn, was examined as follows :

(*Sir Frederick Pollock.*) Are you Clerk to the Solicitor for the Claimant?

I am.

Have you handed in Copies of the Entries in the Parish Registers which have been read?

I have.

Are they all of them true Copies?

They are.

In whose Handwriting are they?

The greater Part of them my own.

Have you compared every one of them with the original Entries?

The whole of them.

They are literally Copies?

Literally.

The Witness was directed to withdraw.

Proposed to adjourn this Committee *sine Die*;

Accordingly,

Adjourned *sine Die*.





*Die Martis, 18<sup>o</sup> Junii 1839.*

The Earl of SHAFTESBURY in the Chair.

**THE** Order of Adjournment was read.

The Minutes of the last Committee were read.

Evidence on the  
Tracy Claim of  
Peerage.

The Counsel and Parties were ordered to be called in.

Sir Frederick Pollock, Mr. Hedley, and Mr. Gibson appeared as Counsel for the Claimant.

Mr. Attorney General appeared on behalf of the Crown.

Mr. Hedley stated, That he proposed to fill up the Blanks in the former Day's Proceedings, by putting in the Proofs in the First and Second Divisions of the Case. That in the first place he proposed to prove the Grant of the Dignity of Viscount and Baron Tracy of Rathcoole.

Then HENRY GEORGE HOLDEN, Esquire, was called in; and *H. G. Holden, Esq.* having been sworn, was examined as follows:

(*Mr. Hedley.*) What are you?

I am a Clerk in the Record Office in the Rolls Chapel.

What do you produce?

The Inrolment of Letters Patent creating Sir John Tracy to be Baron and Viscount Tracy of Rathcoole in the Kingdom of Ireland, dated 18th of Charles the First.

The same was read as follows:

D coñ honoř Johi Tracy } Rex ĩč. archiepis ducib; marchioñ comitib;  
mił ĩ heređ. } vicecomitib; epi; baronib; militib; pre-  
positis libis homiñ ac omib; officiař ministr ĩ subditis nřis quibuscunq;  
ad quos přsentes lře pvener salřm Regalis nře dignitař fastigiũ ornari  
ĩ augeri censem\* cum viri virtut splendore geni; nobilitař ĩ fortuñ  
amplitudiñ plucetes honoř titlis decorant\* ĩ insigniunt\* hinc eciam  
industř atq; virtutes omes eximie excitari compřim\* ĩ augeri qđ nos  
serius ppendeñ regio intuitu inspexim\* merita clarissimi viri Johis  
Tracy de Toddington in com nřo Gloucestr mił cujus non solum virtus  
spectatissima sed ĩ nataliũ splendor antiqua origiñ ĩ illustriũ majoz  
serie pcelebris satis eciam amplo patrimoñ ad nobilitatis titlos honorifice  
sustentandos locupletař ejusmodi eum virum exhibet qui in magnař  
numũ condigne sit adsciscendus Ideo equũ invenim\* et meriř tam  
(46.2.) insignis

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H. G. Holden, Esq. insignis viri consentaneū esse duxim<sup>s</sup> ut honoris accessioñ nobilitatē foret atq; eum in statum titlū honorem nomen ⁊ dignitatem tam vicecomē q<sup>m</sup> baroñ in regno nro Hibnie creandū censuim<sup>s</sup>. Sciatis igit<sup>r</sup> qđ nos de grā nra spīal ex cōta sciencē ⁊ mero motu nris p̄fat Joħem Tracy ad statum gradum dignitatē ⁊ honoř baronis ⁊ vicecomitis Tracy de Rathcule in comē nro Dubliñ infra regnū nrm Hibnie constituim<sup>s</sup> ordinavim<sup>s</sup> erexim<sup>s</sup> p̄fecim<sup>s</sup> ⁊ creavim<sup>s</sup> iřmq; Joħem Tracy baroñ ⁊ vicecomitem Tracy de Rathcule in comē nro Dubliñ infra regnū nrm Hibnie constituim<sup>s</sup> p̄ficim<sup>s</sup> erigim<sup>s</sup> ordinam<sup>s</sup> ⁊ cream<sup>s</sup> p̄ p̄sentes eidemq; Joħi nomen statum titlū dignitatē gradum ⁊ honoř baroñ ⁊ vicecomē Tracy de Rathcule imposuim<sup>s</sup> dedim<sup>s</sup> ⁊ p̄buim<sup>s</sup> ⁊ p̄ p̄sentes imponim<sup>s</sup> dam<sup>s</sup> ⁊ p̄bem<sup>s</sup> hēnd ⁊ tenend eadem stat gradū dignitatem titlū nomen ⁊ honoř p̄fat Joħi ⁊ hered masculis de corpore suo exeun imp̄m voleñ ⁊ p̄ p̄sentes concedēñ p̄ nob hered ⁊ successoř nris qđ p̄dicť Joħes ⁊ hered sui masculi de corpore suo exeun p̄dicť nomen statum gradum stilum titlū dignitatē ⁊ honorem gerant ⁊ teneant ⁊ quilt eoř gerat ⁊ teneat ⁊ p̄ nomen baronis ⁊ vicecomē Tracy de Rathcule vocent<sup>r</sup> ⁊ nuncupent<sup>r</sup> ⁊ eoř quilt vocet<sup>r</sup> ⁊ nuncupet<sup>r</sup> qđq; p̄dicť Joħes ⁊ hered sui masculi successive baroñ ⁊ vicecomē Tracy de Rathcule in omib; teneant<sup>r</sup> ⁊ ut baroñ ⁊ vicecomē t<sup>ct</sup>ent<sup>r</sup> ⁊ reputent<sup>r</sup> ⁊ eoř quilt teneat<sup>r</sup> t<sup>ct</sup>et<sup>r</sup> ⁊ reputet<sup>r</sup> qđq; p̄dicť Joħes ⁊ hered sui masculi p̄dicť ⁊ eoř quilt heat teneat ⁊ possideat sedem locum ⁊ vocem in parliameñ publicis comiciis atq; conciliis nris hered ⁊ successoř nroř infra regnū nrm Hibnie int alios baroñ ⁊ vicecomē ut baroñ ⁊ vicecomē parliameñ ⁊ publicoř comicioř ⁊ concilioř. Et qđ p̄dicť Joħes ⁊ hered sui masculi p̄dicť uxles ⁊ libi tam masculi q<sup>m</sup> femelli gaudeant ⁊ utant<sup>r</sup> ⁊ eoř quilt ⁊ queřt gaudeat ⁊ utat<sup>r</sup> omib; ⁊ singulis parib; privileg p̄heminencē p̄cedencē ⁊ imunitatē ad statum ⁊ loč baroñ ⁊ vicecomē regni nri Hibnie in omñ rite ⁊ de jure p̄tiñ quib; ceti baroñ ⁊ vicecomites dci regni nri Hibnie ante hec tempora melius honorificencius ⁊ quietius usi sunt ⁊ gaviř seu in p̄senti gaudent ⁊ utunt<sup>r</sup>. Volum<sup>s</sup> eciam tč Absq; fine in hanapio tč In cujus rei tč T. R. apud Oxon duodecimo die Januař. P̄ iřm Regem.

Have you an Office Copy?  
I have; it is examined by myself.

The Counsel being asked whether Search had been made for the original Patent.

Sir Frederick Pollock stated, That the Claimant had no Means of searching in any Direction; that it could not possibly be in any Custody or Possession to which he had Access; that he had inherited no Estate, and was not the personal Representative; and therefore had no Muni-ments to refer to, and had not entitled himself to search for Papers.

The Counsel were informed, That the Evidence might be received de bene esse.

The same was delivered in.

Mr.

Mr. Hedley stated, That he proposed next to prove that Robert Tracy was the Second Viscount, and that John Tracy was his eldest Son and Heir.

Then Mr. GEORGE JAMES MUSSETT was called in; and having been sworn, was examined as follows: Mr. G. J. Mussett.

(Mr. Hedley.) What are you?  
A Clerk in the Prerogative Office, Doctors Commons.

Do you produce a Will?

I produce an official Copy, which was left on the File when the Original was delivered out; the Original having been delivered out. It is the Will of Sir Robert Tracy of Alderton in the County of Gloucester, Knight, Lord Viscount Tracy of Rathcule in the County of Dublin; it is dated the 3d of May 1662, and proved the 25th of June 1662.

By whom is it executed?

He describes himself as Sir Robert Tracy Lord Viscount Tracy of Rathcule in the County of Dublin.

To whom was the Probate granted?

To the Honourable John Tracy Viscount Tracy of Rathcule, the Son—" filii naturalis," and general Executor.

An Extract was read therefrom as follows :

\* \* \* \* And as to for or concerning all and singuler the same lands tenements and hereditaments herein-before in vse lymited vnto the said dame Dorothy my wife from and iimediately after my decease and the determinaçon of the said estates herein-before lymited vnto the said dame Dorothy concerning the same respectively and also as to for and concerning all and singuler the rest and residue of the said mannors lands tenements and hereditaments whatsoever in the said indenture mençoned and thereby graunted and released or mençoned to bee graunted and released withall and singuler their and every of their appurtenances from and iimediately after my decease to the vse and behoofe of John Cocks of the Middle Temple London esq' Henry Cocks. of the Middle Temple aforesaid gent and their heyres and assignes for ever vpon speciall trust and confidence nevertheles and to the intent and purpose that they the said John Cocks and Henry Cocks their heyres and assignes or the survivor of them and his heyres shall by and with the rents issues and proffitts of the said mannors lands and premisses or by sale demise or mortgage thereof or of any part or parts parcell or parcells thereof or otherwise as to them in their discreçons shall seeme fitt levy and raise moneys and therewith satisfy all such debts as I shall justly and truely owe vnto any person or persons at the time of my decease and alsoe satisfy and pay vnto each of my three sonnes viz' Thomas William and Henry and to my daughter Frances severally the yearely sūme or annuity of threescore pounds apeece dureing their respective lives and vnto my sonnes Robert and Benjamin and vnto my daughter Mary the yearely summe of twenty poundes a peece to be paid vnto my deare wife Dorothy their mother for and towards their maintenance vntill such time as their respective porçons hereafter by me given shall become due and payable if they shall soe long live to bee paid vnto them severally at twoe feasts or dayes of pay-  
(46.2.) D ment

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*Mr. G. J. Mussett.* ment that is to say the feast of S<sup>t</sup> Phillip and Jacob and the feast of All Saints yearely in every yeare by equall porçons the first payment to begin at such of the said feasts as shall first and next happen after my decease and alsoe satisfy and pay vnto every of my said three sonnes viz<sup>t</sup> Thomas William and Henry and my daughter Frances from and after the decease of dame Mary Vere widowe who hath an estate for her life in some part of the said lands and premisses the further yearely summe of forty poundes apeece during their respective lives over and besides the yearely sūme of threescore poundes apeece \* \* \* \* And my further will is that in case my said sonne and heyre apparent shall bee willing to take vpon him the management of the premisses and truely to pay and satisfy all the debts annuities or yearely sums of money or other sūmes of money herein-before appointed to bee paid that then at his request the said John Cocks and Henry Cocks their heyres and assignes shall and may convey all the said lands tenements and hereditaments vnto him the said John Tracy and his heyres soe as in such conveyance soe to be made there be effectually conteyned a provisoe or condiçon for payment of all the said debts annuities or yearely sūmes of money or other sūmes of money herein-before appointed to bee paid soe that in case of any default to bee made in payment thereof or of any of them the said John Cocks and Henry Cocks and their heyres may reenter and have againe all the said lands and premisses for the performance of the trusts aforesaid \* \* \* \* And I do make and ordaine the said John Cocks and Henry Cocks to bee executors of this my last will and testament and doe give vnto them the sūme of twenty poundes a peece for their paines and care herein provided nevertheles that if my said sonne John Tracy doe within the space of three moneths after my decease take vpon him the management and performance of the trust above mençoned and shall accept and seale and deliver as his act and deed the counterparte of such a condiçonall conveyance as is abovemençoned that then and from thenceforth hee the said John Tracy shall bee sole executor of this my last will and testament Item my will is that my wife doe dispose of all my weareing apparrell and doe recommend to her care Alice Stephens my mayd In witnes whereof I haue herevnto set my hand and seale this third day of May annoq; Dñi 1662 and in the fourteenth yeare of the raigne of our gracious soveraigne lord Charles the second by the grace of God of England Scotland France and Ireland king defender of the faith &c.

The marke of the lord viscount Tracy.

Signed sealed and published to be my last will  
and testament in the presence of  
ANTHONY IZOD.  
RICHARD WILKINS.

Probatum fuit testamentum suprascriptum apud Londoñ coram veñli viro Jacobo Master legum dçore surrõ veñlis viri dñi Guilielmi Mericke militis legum etiam dçoris curiæ prærogativæ Cant magri custodis sive comissarii Itime constituti vicesimo quinto die menšs Junii anno Dñi millimo sexcentesimo sexagesimo scdo juramento honorandi viri Johis dñi Tracy modo dñi vicecomitꝝ Tracy de Rachcule filii ñralis Itimi dçi defuncti et executoris generalis in testamento predçõ nominať cui comissa fuit administraçõ omnium et singulorum bonorum jurium

jurium et creditorum dēi defuncti de bene et fidelr administrandē eadem ad Sancta Dei Evangelia jurať (Johanne Cocks ař et Henrico Cocks generoso executoribus specialibus in testamento predčo defuncti sub limitačonibus in eodm testamento expressis nominať onus execučonis testamenti predči in se acceptare penitus et expresse ad huc (et in præsenti etiam) respective recusantibus vt coram iudice tempore p̄stačonis juramenti prediči p̄ eosdem executores speciales etiam in iudicio respective presentes extitit allegatum). *Mr. G. J. Mussett.*

Then Mr. ALFRED CLARKE was called in ; and having been sworn, was examined as follows : *Mr. A. Clarke.*

(*Mr. Hedley.*) Do you produce an examined Copy of the Will just produced?  
 I do.  
 Did you examine that yourself?  
 I did.  
 It is correct?  
 It is.

The same was delivered in.

Mr. Hedley stated, That he proposed next to prove that John the eldest Son of Robert the Second Viscount succeeded, and became the Third Viscount.

Then HENRY GEORGE HOLDEN, Esquire, was further examined, as follows : *H. G. Holden, Esq.*

(*Mr. Hedley.*) What do you produce?  
 I produce the Inrolment of a Commission to Clarencieux King of Arms to visit, in the First of James.

The same was read as follows :

Com̄ sp̄ial Willo Camden ař.	}	James by the grace of God &c. To oure trustie and welbeloved servaunte William Camden esquier surnamed Clarencieux kinge of armes of the east west and southe partes of oure realme of Englande from the ryver of Trente southwardes and to all other oure lovyng subjecte greetinge Forasmuche as God of his greate clemencye and goodnes hathe subjected to oure empyre and governance the nobillitie people and com̄ons of this realme of Englande Wee myndyng of oure royall and absolute power to us com̄ytted to visitte survey and viewe through- out all oure realme of Englande and other domynyons aswell for a due order to be kepte and observed in all things touchinge the office and dueties appteyninge to armes as also for reformačon of dyvers and sundrie abuses and disorders daylye arysynge and groweing for wante of ordynarie vysytačons surveys and viewes in tymes conveniente accordinge to the aunciente forme and laudable custome of the lawes of armes And that the nobillitie of thys realme maye be preserved in everie degree as apperteyneth aswell in honor as in worshippe And that every person and persons bodies politique corporate and others maye be the better knowne in hys and there estate degree and mys- terye	No. 30.
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(46.2.)

*H. G. Holden, Esq.* terye without confusion or disorder Have therefore constituted deputed ordayned and appoynted for us and in oure name oure saide welbeloved svante William Camden esquire alias Clarencieulx kinge of armes in the said easte west and southe partes of oure realme of Englande from the saide river of Trente southward<sup>e</sup> to visitte all the saide province and the partes and members thereof apperteynyng to the offyce and charge of the saide Clarencieulx kinge of armes from tyme to tyme as often and when as he shall thinke moste necessarye and conveniente for the same And not onelye to enter into all churches castles howses and other places at hys discrecion to peruse and take knowledge survey and viewe of all manner of armes cognisances crest<sup>e</sup> and other devises of armes of all and singuler oure subject<sup>e</sup> aswell bodies pollitique as others within the saide province of what dignitie or degree estate or mysterie soever they be lawfullye aucthorised to have use or beare any suche armes cognisances crest<sup>e</sup> and other like devises with the notes of their discentes pedegries and marriages And the same to enter of recorde in a registry booke of armes accordinge to suche order as ys prescrybed and sett forthe in the office charge and oathe taken by oure saide servante at his creaçon and coronaçon but also to correcte controlle and reforme all manner of armes crestes cognysaunces and devices unlawfull or unlawfullie usurped borne or taken by any manner person or persons within the same province cont<sup>r</sup>ye to the due order of the lawe of armes And the same to reverse pull downe or otherwise deface at his discrecion aswell in cote armes helme standerd<sup>e</sup> pennons and hatchmentes of tentes and pavilions as alsoe in plate jewells paper parchmente wyndowes gravestones and monumentes or elles where wheresoever they be sett or placed whether they be in sheilde scutcheon lozenge square roundell or otherwise howsoever contrary to the antiquitie and aunciente lawes customes rules priviledg<sup>e</sup> and orders of armes And further wee by these presentes doe give and graunte to the saide Clarencieulx full power and aucthoritie to reprove controlle and make infamous by p<sup>r</sup>clamaçon to be made at the assizes or generall sessions within the same hys province to be had and kepte or at suche other place or places as he or they shall thinke moste meete and conveniente all and all manner of person or persons that unlawfullye and withoute juste aucthoritie vocaçon or due callinge do or have donne or shall usurpe to take uppon hym or them anye manner of tytle of honor or dignitie as esquier gentleman or other And likewyse to reforme and comp<sup>r</sup>olle all suche as at any funerall<sup>e</sup> or intermentes shall use or weare anye mourninge apparell as gownes hoodes tippetts or suche like cont<sup>r</sup>ie to the order lymitted and prescrybed in the tyme of the moste noble prince kynge Henrie of famous memorie the seaventh oure grandfather otherwise or in anye other sorte then to their estates and degrees dothe or shall appertayne And furthermore by these presentes wee prohibitte and forbidde that no paynter glasier gouldsmythe graver or any other artyfycer whatsoever he or they be within the saide province of the saide Clarencieulx shall take uppon them to paynte grave glase devise or sett forthe by anye wayes or meanes any manner of armes crestes cognyzaunc<sup>e</sup> pedegrees or other devises appertaynyng to the offyce of armes otherwise or in anye other forme or manner then they maye lawfullie doe and shalbe allowed by the saide Clarencieulx hys deputie or deputies accordinge to the auncyente lawes and statutes of armes And wee forbidde and straightlie com<sup>a</sup>unde all oure sheriffes com<sup>y</sup>ssyoners archdeacons official<sup>e</sup> scryvenors clerks wryters or other whatsoever

whatsoever they be to calle name or write in anye assyse sessyons *H. G. Holden, Esq.*  
 courte or other open place or places or ells to use in any writinge the  
 addiçon of esquire or gentleman unlesse they be able to stande unto  
 and justyfy the same by the lawe of armes of oure realme or ells be  
 ascertened thereof by advertysemente in writinge from the saide Cla-  
 rencieulx kinge of armes or his deputye or deputies attorney or attorneys.  
 And further wee straightlie charge and comaunde that noe other person  
 or persons shall intromytte or meddle with anye thinge or thinges  
 touchinge and concerninge the office of armes within the saide provynce  
 without speciall lycence and auctoritie of the saide Clarencieulx in  
 writinge under the seale of the said office firste had and obteyned from  
 the saide Clarencieulx. All the which said power prehemynence juris-  
 dicçon and auctoritie above specified for us oure heires and successors  
 wee doe geve and graunte by these present<sup>e</sup> to the saide Willm Camden  
 alias Clarencieulx dueringe his naturall lief in as large and ample  
 manner and forme in everye thinge and thing<sup>e</sup> as anye hys predecessors  
 or anye other bearinge the name or tytle of Clarencieulx have or had  
 did or mighte doe by force of anye lres patentes graunted by anye of  
 oure pdecessors or as of righte he or they oughte or mighte have used  
 to doe and exercysed by force of his saide office with all manner of  
 proffitt<sup>e</sup> advantages and emolumentes thereunto belonginge. Wherefore  
 wee will and straightlie charge and comaunde all and singuler oure jus-  
 tices sheriffes mayors bailiffs and all other oure officers mynysters and  
 constables and all and everie oure lovinge subject<sup>e</sup> that in the execuçon  
 of the premysses they effectuallye employe their best ayde assistaunce  
 furtheraunce and counsaile to oure saide servante hys deputie or depu-  
 ties soe often and when as he or anye of them shall requyre the same  
 in all that they convenientlie maye as they tender oure favoure and will  
 answere the contrarie at their perrill. And further by these presentes  
 wee doe authorise oure saide servante to nomynate and appoynte under  
 the seale of his saide office soe manye deputies or attorneys as shalbe  
 thoughte to hym expediente for the better execuçon of all and singuler  
 the premysses. And yf there fortune to falle oute in this visitaçon any  
 manner of scruple doubtte questyon or anye mysdemeanor of anye person  
 or persons whatsoever that cannot be convenientlye decided or ended  
 by oure saide servante or by suche deputie or deputyes or attorneys as  
 he under the seale of hys saide offyce shall name and appoynte. Then  
 oure mynde and pleasure ys that oure saide servante hys deputie depu-  
 ties or attorneis named as ys aforesaid shall comaunde suche person or  
 persons whome the saide question scruple or misdeameanor shall con-  
 cerne under a certayne payne and at a certen daie to appeare before  
 the earle marshall of Englande for the tyme before whome the saide  
 scruple question or misdemeanor shalbe hearde and ordered accordinge  
 to the lawes and custome of armes in that case provided and of aun-  
 cyente tyme used anye statute lawe pclamaçon custome or usage to  
 the contrarie in any wise notwithstandinge. In wytnes whereof &c.  
 Wytnes oure selfe at Harfeilde the fyfte daye of Auguste.

p bře de privato sigillo &c.

Have you an Office Copy of that Commission?  
 Yes; it is examined by me.

The same was delivered in.

(46.2.)

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Then

T. W. King, Esq. Then THOMAS WILLIAM KING Esquire was called in; and having been sworn, was examined as follows :

- (*Mr. Hedley.*) What is it you produce ?  
This is the original Book of Visitation of the County of Gloucester, taken in the Year 1623.
- Is that signed ?  
It is signed by Two Members of the Family.
- What are their Names ?  
It is signed by a John Tracy and Paul Tracy, of Two different Lines.
- (*By a Lord.*) By what Officer does it appear to have been made ?  
It is made by William Camden, Clarencieux.
- Does that appear upon it ?  
It does not appear upon the Face of the Pedigree.  
How do you know that Fact ; is there a Title to the Book ?  
I do not know whether there is any Title to the Book.
- (*Mr. Hedley.*) From whence do you produce it ?  
From the Heralds College.
- Is it kept there among the Muniments ?  
Yes.
- (*By a Lord.*) How is it described ?  
There is no Title Page to it. We receive it as the original Book of Visitation of the County of Gloucester, made in 1623, Camden being the Clarencieux.
- How do you connect that with the Commission ?  
From its Date ; the Commission is granted to Camden for Life, and he was living in 1623.
- Has it any official Signature ?  
No ; only the Signatures of the Parties.
- Are not your Visitation Books generally intituled ?  
They are.
- (*Mr. Hedley.*) Can you identify that with the Commission ?  
No further than by the Corroboration of the Dates.
- Is it like the other official Books in the Office ?  
Oh yes, precisely so.
- Both before and after ?  
Oh yes ; it is upon the same Principle exactly.
- And having the same Appearance ?  
Yes, the same Appearance in every respect.
- It was taken by the same Person who is mentioned in the Commission ?  
Either taken by him or his Deputy.
- Is this the only one you have ever seen without a Title ?  
No ; I believe there are others which are just the same.
- Is this a single Book ?  
It is the Book for the County of Gloucester.
- Is it one of a Set ?  
It is one of a Set, but the other Books are for other Counties.

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Is it numbered?

It is numbered "17," with a Mark of "C."

Have you the Numbers before and after this?

Oh yes; there are "C. 16." and "C. 18."

Have you another "C. 16." besides this?

No, certainly not.

Is there any Return to the Commission?

No, I believe not.

(*By a Lord.*) What is there which shows you that that Book has Authority belonging to it; that it is compiled under the Authority of a Royal Commission?

That I cannot answer.

What is there by which you can satisfy the House that that Book is the Result of the Labours of a Royal Commission?

The only Evidence is its having the same Appearance, and having consecutive Numbers with the others, and all the others being in the same State.

Mr. Attorney General submitted, That this Book was not Evidence, there being nothing to connect it with the Commission, and there being no Evidence of the Handwriting of the Signatures as being those of Members of the Family.

(*Mr. Hedley.*) Do you find any Reference to the Visitation?

Yes; under the Head of Tewkesbury there is a Reference to the Visitation. It is said, "At this Time of the Visitation."

Is there any Date to it?

Only to each Pedigree.

Are all the Books in the Office intituled?

I cannot speak to that Fact; for the most Part they are, certainly; some may not be; I will not speak to that Fact, not having examined.

Has each Pedigree a Date?

The Date of the Year.

Mr. Attorney General submitted, That this must be withdrawn for the present, without Prejudice to the offering it again, if by Search further Evidence could be given of its Authenticity.

Mr. Hedley withdrew the Evidence for the present, and stated, That he next proposed to prove the Death of John the Third Viscount.

Then Mr. GEORGE JAMES MUSSETT was further examined as *Mr. G. J. Mussett.*  
follows:

(*Mr. Hedley.*) Do you produce a Will?

I do.

What Will is it?

It is the Will of John Lord Viscount Tracy, dated the 3d of March 1682.

What is the Date of the Probate?

The 11th of June 1687.

(46.2.)

The



*Mr. G. J. Mussett.*

The same was read as follows :

No. 31.

In the name of God Amen I John lord viscount Tracy being of sound and perfect memory and understanding do make this my last will and testament in manner following Imprimis I commend my soule into the hands of Almighty God and my body to the earth to be decently buried at the discretion of my executrix hereafter named and as for that worldly estate which it hath pleased God to blesse me withall I dispose of the same as followeth I devise and bequeath those severall closes or inclosed grounds lying in Hayles in the county of Gloucester comonly called or known by the names of the Great Grove-Leys Pages More and Long Meadow with the appurtenances unto my dear wife during her life and from and after her decease unto William Tracy my son during his life and after the decease of the said William Tracy to the first son of the said William Tracy and the heires males of the body of such first son lawfully to be begotten and for default of such issue to the second son of the said William Tracy and the heires males of the body of such second son lawfully to be begotten and for default of

Sic orig.

such issue to the third fourth fifth sixth and seaventh sons <sup>& all & every other the son & sons</sup> of the said William Tracy and the respective heires males of the body of every such son and sons lawfully to be begotten the elder of such sons and the heires males of his body being alwaies preferred before the younger of such sons and the heires males of his body according to their priority of birth and seniority of age and for default of such issue I give and devise the said grounds and premises unto John Tracy my grand son and the heires males of the body of the said John Tracy lawfully to be begotten and for default of such issue my will is that the same shall remaine to my right heires for ever Item I do give and bequeath unto my dear wife all my goods chattells money plate jewells rings household stufte debts and all other personall estate whereto I have any right or title either in law or equity or otherwise howsoever And I do hereby make and constitute my said wife my sole executrix of this my last will and testament In wittnesse whereof I have hereunto sett my hand and seale this third day of March in the five and thirtieth yeare of the raigne of our soveraigne lord king Charles the second &c annoq Dñi 1682.

J. TRACY. (L.S.)

Signed sealed and published in the presence of  
R. FREEMAN  
THO. WILDING  
FRANCIS MYNETT.

Probatū apud Londoñ &c undecimo die Junii anno Dñi millimo sexceñmo octoḡmo septimo coram dño &c juramento prenobilis et honorandæ fœminæ dñæ vicecomitissæ dotissæ Tracy executricis &c cui &c de bene &c vigore com<sup>nis</sup> jurat.

*Mr. A. Clarke.*

Then Mr. ALFRED CLARKE was further examined, as follows :

(*Mr. Hedley.*) Do you produce an examined Copy of that Will?  
I do.

The same was delivered in,

Mr.

( 21 )

Mr. Hedley stated, That he next proposed to prove that William Tracy, the eldest Son of John Third Lord Viscount Tracy, succeeded his Father, and became the Fourth Viscount, the last Will having mentioned "and after her Decease unto William Tracy, my Son, during his Life." *Mr. G. J. Mussett.*

Then Mr. Mussett was further asked:—

(*Mr. Hedley.*) Do you produce the Will of William the Fourth Viscount Tracy?

I do, the Will of William Lord Viscount Tracy, dated the Three-and-twentieth of November, in the Ninth Year of our Sovereign Lady Anne; it is proved the 2d of July 1712.

By whom was that Will proved?

By the Honourable Thomas Charles Viscount Tracy, the Son and Executor.

The same was read as follows:

In the name of God Amen I William lord viscount Tracy being under some indisposition of body but of a sound mind and memory blessed be God for the same doe make my last will and testament this three and twentyeth day of November in the ninth year of the reigne of our souaigne lady Anne by the grace of God of Greate Brittainne Fraunce and Ireland queene defender of the faith &c. ann<sup>o</sup> Dñi one thousand seaven hundred and tenn in manner and forme following that is to say First and principally I comitt and comend my soule into the hands of Almighty God hoping to bee saved by the meritorious death and passion of Jesus Christ my blessed Saviour and Redeemer and my body I comitt to the earth to bee decently interred att the discretion of my e<sup>x</sup>or herein-after named <sup>in Toddington Church</sup> And for my worldly estate whereof God hath made me a dispossor I give and dispose thereof as followeth that is to say I give devise and bequeath unto m<sup>rs</sup> Susannah Overton widdow the sume of two hundred pounds of lawfull money of Great Brittainne to bee payd unto her by my e<sup>x</sup>or herein-after named within the space of six moneths next after my decease Item I give devise and bequeath unto my servant Thomas Wilding the sum of one hundred pounds of lawfull mony of Great Brittainne to bee payd unto him within the space of six monethes next after my decease Item I give devise and bequeath unto my sonne Thomas Charles Tracy all and singler my plate ready mony goods chells cattle and all the rest and residue of my psonall estate and do make constitute and ordaine my sayd sonne Thomas Charles Tracy sole e<sup>x</sup>or of this my last will and testament hereby revoakeing and makeing voyd all former wills by me made and declare this to bee my last will and testament In witness whereof I have hereunto putt my hand and seale the day and year first above written.

No. 32.

Sic orig.

TRACY (L.S.)

Signed sealed published and declared by the sayd  
Wittm lord Tracy for his last will and testament  
in the presence of

EDW. BULSTRODE  
H. IZOD

SAMUEL JEFFERIES  
SAM<sup>l</sup> BULSTRODE

April 17, 1712 Memorandum that the right hoñble William lord visc<sup>t</sup> Tracy did y<sup>e</sup> day before his decease in y<sup>e</sup> presence of us whose names are under written declare it to be his will & desire that one  
(46.2.) F hundred

Mr. G. J. Mussett.  
Mr. A. Clarke. hundred pounds should be given unto Catharina Bishop daughter of Thomas Bishop of Broadway in y<sup>e</sup> county of Worcester and that y<sup>e</sup> said hundred pounds to be paid w<sup>th</sup>in twelve months after his decease & put into y<sup>e</sup> hands of her uncle John Horseley of Henley in y<sup>e</sup> county of Warwick mercer in trust for y<sup>e</sup> said Catharina Bishop to be paid her when she shall come to be at age and y<sup>e</sup> use of y<sup>e</sup> mony to be for her maintenance in y<sup>e</sup> meantime Witness o<sup>r</sup> hands

JOHN BAGLEY.  
SAMUEL JEFFERIES.  
SUSANNA OVERTON.

Probatum Londini cum cođ anneñ coram dño secundo die meñsis Julii anno Dñi 1712 jurañto p<sup>r</sup>nobilis et hoñdi viri Thomæ Caroli vicecomitis Tracy filii dñi defti et eñris unici &c. cui &c. de bene &c. vigore commiñ jurañ.

Then Mr. Clarke was further asked :—

(*Mr. Hedley.*) Do you produce an examined Copy of that Will?  
I do; I examined it myself.

The same was delivered in.

Mr. Hedley stated, That the Will just put in proved that William the Fourth Viscount was succeeded by Thomas Charles, who became the Fifth Viscount; that he now proposed to prove that he had Issue by his Marriage with Lady Elizabeth, his First Wife, Two Sons, William his eldest Son and Thomas Charles.

Mr. T. A. Bulgin. Then Mr. THOMAS AUGUSTUS BULGIN was called in; and having been sworn, was examined as follows:

(*Mr. Hedley.*) What are you?  
Clerk to the Masters of the Court of Common Pleas.  
What do you produce?  
An Inrolment of a Bargain and Sale.  
From what Custody?  
From the Treasury of the Court of Common Pleas.

The same was read as follows:

No. 33. The rolls of deeds and writings acknowledged and allowed before sir John Willes knight and his associates justices of his majesty's court of Common Bench of the term of the Holy Trinity in the twenty-first and twenty-second years of the reign of George the second by the grace of God of Great Britain France and Ireland king defender of the faith &c.

Thomas Wyld came the seventh day of June in this term before Thomas Burnett one of the justices of his majesties court of Common Pleas at Westminster and acknowledged this writing following to be his deed and required the same to be inrolled in these words This indenture made the fourth day of April in the twenty-first year of the reign of our sovereign lord George the second by the grace of God of Great Britain France and Ireland king defender of the faith &c. and in the

the year of our lord one thousand seven hundred and forty-eight between the right honourable Thomas Charles lord viscount and baron Tracy of Rathcule in the county of Dublin in the kingdom of Ireland and the honourable William Tracy esquire eldest son and heir apparent of the said Thomas Charles lord viscount Tracy of the first part Thomas Wyld of the Inner Temple London gentleman of the second part and John Hughes of the Inner Temple aforesaid stationer of the third part witnesseth That for the barring and destroying all estates tail heretofore made or limited of and in the manor messuages lands tenements and hereditaments with the appurtenances herein-after mentioned and all reversions and remainders thereupon depending and expectant and for settling and assuring the same hereditaments and premises to and for the several uses intents and purposes and under and subject to the provisoes herein-after declared and expressed concerning the same and also in consideration of five shillings of lawful money of Great Britain to the said Thomas Charles lord viscount Tracy and William Tracy in hand paid by the said Thomas Wyld at or before the sealing and delivery of these presents the receipt whereof is hereby acknowledged and for divers other good causes and considerations they the said Thomas Charles lord viscount Tracy and William Tracy have and each of them hath granted bargained and sold and by these presents do and each of them doth grant bargain and sell unto the said Thomas Wyld and his heirs all that the manor of Toddington in the county of Gloucester with its rights members and appurtenances and also all that capital messuage or manor house called Toddington House in Toddington in the said county of Gloucester with the gardens orchards barns stables outhouses and other appurtenances therewith used and enjoyed And also all that park called Toddington Park lying and being in Toddington aforesaid and in Greet and Gretton or elsewhere in the said county of Gloucester or some or one of them And all messuages lands tenements and hereditaments parcel or reputed parcel of the said manor of Toddington or thereto belonging or in anywise appertaining And all that the rectory or parsonage of Toddington aforesaid with the appurtenances and all tythes of corn grain and hay and all other tythes arising growing renewing and increasing within the parish of Toddington aforesaid And all that the advowson or right of patronage of the vicarage of the parish church of Toddington aforesaid And also all that capital messuage or mansion house called Hayles House situate lying and being within the manor or reputed manor of Hayles in the said county of Gloucester together with all orchards gardens barns stables and other outhouses and appurtenances thereunto belonging or therewith used or enjoyed And also all that messuage tenement and farm situate and being within the said manor or reputed manor of Hayles consisting of divers closes or inclosed grounds of arable meadow and pasture land heretofore in the tenure or occupation of John Stiles or his assigns at the yearly rent of one hundred and twenty pounds but now or late of John Crips And also all those closes or grounds inclosed lying and being within the said manor or reputed manor of Hayles consisting of meadow or pasture ground called the Ox Leasou the two Madcrofts and the Great Parks heretofore in the tenure of Dobbins widow and afterwards in the tenure of John Fardon or his assigns at the yearly rent of one hundred and twenty pounds but now or late of Fardon widow And also all that close or ground inclosed of meadow or pasture lying and being within the said manor or reputed manor of Hayles called the Old Orchard heretofore in the tenure of

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Whittle

*Mr. T. A. Bulgin.*

Mr. T. A. Bulgin.

Whittle widow at the yearly rent of three pounds but now or late of the said John Crips And also all that close or ground inclosed of meadow or pasture called the Little Park lying and being within the said manor or reputed manor of Hayles heretofore in the tenure of

Sexty widow at the yearly rent of thirteen pounds ten shillings but now or late of William Candle And also all that close or ground inclosed of meadow or pasture lying and being within the said manor or reputed manor of Hayles called Ewe Leasow now or late in the tenure of William Candle at the yearly rent of forty-five pounds And also all that close or ground inclosed of meadow or pasture lying and being within the said manor or reputed manor of Hayles called the Green heretofore in the tenure of the said John Stiles or his assigns at the yearly rent of ten pounds but now of the said John Crips And also all that close or ground inclosed of meadow or pasture lying and being within the said manor or reputed manor of Hayles called Warner's Close now or late in the tenure of William Baylis or his assigns at the yearly rent of five pounds ten shillings And also all those closes of meadow or pasture lying and being within the said manor or reputed manor of Hayles called the New Fields and the Great Breach heretofore in the tenure of Isaac Baylis and afterwards in the tenure of

Baylis his widow at the yearly rent of ninety pounds but now or late of William Baylis And also all that close of meadow or pasture within the said manor or reputed manor of Hayles called the Little Breach heretofore in the tenure of George Reeves or his assigns at the yearly rent of ten pounds but now of Thomas Agge And also all that close of meadow or pasture lying and being within the said manor or reputed manor of Hayles called Paynes Leys heretofore in the tenure of John Cheshire and afterwards of Robert Sexty or his assigns at the yearly rent of four pounds ten shillings but now or late of

Sexty widow And also all that close of meadow or pasture lying and being within the said manor or reputed manor of Hayles called Hayles Lane heretofore in the tenure of the said Whittle widow or her assigns at the yearly rent of two pounds but now or late of

Fardon widow And also all those closes of meadow or pasture lying and being within the said manor or reputed manor of Hayles called Tobacco Piece and Carlow Furlong heretofore in the tenure of John Hull or his assigns at the yearly rent of twenty-eight pounds but now or late of William Candle Together with all houses outhouses edifices buildings barns stables mills orchards gardens lands tenements rents of tenants as well freeholders as copyholders courts leets views of frankpledge courts baron perquisites and profits of courts and leets woods underwoods meadows pastures commons wast and wast ground feedings waters watercourses free warrens and which to free warrens belong fishing fowling hawking hunting mines quarries liberties royalties fines heriots goods and chattels of fellons and fugitives and felons de se waifs estrays estreats reliefs amerciaments advowsons donations and rights of patronage tenths tythes oblations obventions ways passages emoluments jurisdictions franchises privileges advantages easements and hereditaments whatsoever to the said manor capital messuages and other the premises and to every of them belonging or to or with the same usually occupied or enjoyed accepted reputed or taken as part parcel or member thereof or of any part thereof with their and every of their appurtenances and all other messuages lands tenements woods tyths rents reversions and hereditaments whatsoever of them the said Thomas Charles lord viscount Tracy and William Tracy or either of them scituate

scituate lying and being within the manor parish precincts liberties or territories of Toddington aforesaid and the reversion and reversions remainder and remainders rents and services of all and singular the said manor hereditaments and premises and all the estate right title interest use property claim and demand whatsoever of them the said Thomas Charles lord viscount and William Tracy or either of them of in and to the same and every part thereof To have and to hold the said manor messuages lands tenements tyths hereditaments and premises herein-before mentioned and intended to be hereby granted bargained and sold and every part and parcel thereof with all and every their appurtenances unto the said Thomas Wyld his heirs and assigns To the only use and behoof of him the said Thomas Wyld his heirs and assigns for ever To the intent and purpose that he the said Thomas Wyld may be and become perfect tenant of the freehold of the same manor messuages lands tenements tyths hereditaments and premises with the appurtenances to the end that one or more good and perfect common recovery or recoveries shall or may be thereof had suffered and perfected in due form of law for which intent and purpose it is hereby declared by and between the said parties that it shall and may be lawful to and for the said John Hughes or his heirs at the costs and charges of the said Thomas Charles lord viscount Tracy to bring sue forth and prosecute against the said Thomas Wyld or his heirs one or more writ or writs of entry sur disseisin en le post out of his majesty's high court of Chancery of and for the said manor messuages lands tenements tyths hereditaments and premises with the appurtenances by such apt names quantities qualities and descriptions to ascertain the same as shall be thought meet the which said writ or writs of entry shall be made returnable before his majesties justices of the court of Common Pleas at Westminster as of last Hilary term or by or before the end of next Easter term And thereby the said John Hughes shall and may demand against the said Thomas Wyld or his heirs all and singular the said manor messuages lands tenements tythes hereditaments and premises with the appurtenances by such apt and convenient names numbers of acres and such quantities and qualities of land and other descriptions as shall be thought proper to ascertain the same To which said writ or writs of entry he the said Thomas Wyld shall appear gratis in the said court in his proper person or by his attorney lawfully authorized in that behalf and shall thereupon vouch to warranty the said several premises the said Thomas Charles lord viscount Tracy who shall also appear gratis in the said court in his proper person or by his attorney lawfully authorized in that behalf and enter into the said warranty and vouch over the said William Tracy who shall thereupon also appear gratis in the said court in his proper person or by his attorney lawfully authorized in that behalf and shall enter into the said warranty and vouch over the common vouchee who shall also appear gratis in the said court and after imparlance had shall make default and so demean himself in all things that one or more good and perfect common recovery or recoveries with treble voucher shall or may be thereof had suffered and perfected in due form of law according to the usual course of common recoveries for assurance of lands in such cases used and accustomed The which said common recovery or recoveries so as aforesaid or in any other manner or at any other time to be had or suffered of the said premises or any part thereof and also all and every other recovery and recoveries fine and fines conveyances and

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*Mr. T. A. Bulgin.*

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*Mr. T. A. Bulgin.*

assurances in the law whatsoever already had made levied and suffered or executed or hereafter to be had made levied suffered or executed of the said manor messuages lands tenements tyths and premises herein-before mentioned and intended to be hereby granted bargained and sold or any of them or any part thereof alone or together with any other lands or tenements by or between the said parties to these presents or any of them or whereunto they or any of them have been are or shall be party or parties or wherein they or any of them shall vouch or be vouched shall be and enure and shall be adjudged construed deemed and taken to be and enure and is and are hereby declared to be meant and intended to be and enure in the first place for corroborating and confirming the estate limited to the right honorable Frances lady viscountess Tracy wife of the said Thomas Charles lord viscount Tracy for her life of part of the said lands tenements and hereditaments hereby bargained and sold by indenture tripartite of settlement bearing date the thirteenth day of July in the year of our Lord one thousand seven hundred and twenty-one made or mentioned to be made between the said Thomas Charles lord viscount Tracy of the first part sir Thomas Cookes Winford late of Ashtley in the county of Worcester baronet deceased Herbert Perot Packington of Westwood in the county of Worcester esquire and Edward Jefferies alias Winnington late of Holm Castle in the county of Hereford esquire also deceased of the second part and sir John Packington late of Westwood aforesaid baronet deceased and Frances Packington spinster youngest daughter of the said John Packington of the third part and subject thereto and to a term of five hundred years for raising six thousand pounds for the portions of younger children of the said Thomas Charles lord viscount Tracy by Elizabeth lady viscountess Tracy his first wife deceased by indenture tripartite of release and settlement bearing date the eighth day of May in the year of our Lord one thousand seven hundred and eighteen and made or mentioned to be made between the said Thomas Charles lord viscount Tracy and the said Elizabeth lady viscountess Tracy his late wife deceased of the first part sir William Keyt late of Old Stratford in the county of Warwick baronet deceased and sir John Clopton of Clopton in the said county of Warwick knight also deceased of the second part Hugh Clopton of Stratford upon Avon in the said county of Warwick esquire and the reverend William Somerville rector of Wickingam in the county of Norfolk clerk of the third part to and for such estate and estates and to and for such uses upon such trusts and for such intents and purposes and subject to such provisoes limitations and agreements as they the said Thomas Charles lord viscount Tracy and William Tracy shall at any time or times during their joint lives by any deed or writing deeds or writings under both their hands and seals attested by two or more credible witnesses grant convey settle assure limit or appoint and for want of such grant conveyance settlement assurance limitation or appointment and in the mean time until such grant conveyance settlement assurance limitation or appointment shall be made and executed to such and the same uses and upon the same trusts and to and for the same intents and purposes as are mentioned and expressed in and by the aforesaid indenture of release or settlement bearing date the eighth day of May in the said year of our Lord one thousand seven hundred and eighteen and to and for no other use intent or purpose whatsoever In witness whereof the said parties to these presents have hereunto

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interchangeably sett their hands and seals the day and year first above written. *Mr. T. A. Bulgin.*  
*Mr. G. J. Mussett.*

TRACY  
W<sup>m</sup> TRACY  
THO<sup>s</sup> WYLD  
JOHN HUGHES

Sealed and delivered by the within named W<sup>m</sup> Tracy and Thomas Wyld (being first duly stampd) in the presence of

NEAL GAHAGAN  
ABRAHAM BANKS  
Clerks to m<sup>r</sup> Pusey

Sealed and delivered by the within named Thomas Charles lord viscount Tracy in the presence of

JN<sup>o</sup> ALLEN PUSEY  
WILLIAM BATTEN serv<sup>t</sup> to m<sup>r</sup> Pusey

Sealed and delivered by the within named John Hughes (being first duly stamped) in the presence of

NEAL GAHAGAN clerk to m<sup>r</sup> Pusey  
JOHN THOMAS serv<sup>t</sup> to m<sup>r</sup> Pusey.

Then Mr. JOSEPH BARTHOLOMEW was called in; and having been sworn, was examined as follows : *Mr. J. Bartholomew.*

(*Mr. Hedley.*) What do you produce?  
An examined Copy of the Enrolment just produced.  
Have you examined it with the Original?  
I have.  
It is a correct Copy?  
It is.

The same was delivered in.

Mr. Hedley stated, That the Fact that Thomas Charles the Fifth Viscount married, secondly, Lady Frances, was proved by the Bargain and Sale just put in ; that he next proposed to prove that John Tracy, the eldest Son of Thomas Charles the Fifth Viscount by Lady Frances, his Second Wife, succeeded his Half-brother Thomas Charles the Sixth Viscount, and became the Seventh Viscount.

Then Mr. Mussett was further asked : —

(*Mr. Hedley.*) Do you produce the Will of Thomas Charles Lord Viscount Tracy?

This is the Will of the Right Honourable Thomas Charles Lord Viscount Tracy, dated the 22d of April 1756.

When was that proved?

The 25th of June 1756, by the Oath of the Honourable and Reverend John Tracy, the sole Executor.

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*Mr. J. Bartholomew.*

The same was read as follows :

No. 34.

This is the last will and testament of me Thomas Charles lord viscount Tracy Whereas by indenture tripartite bearing date the sixteenth day of September in the year of our Lord one thousand seven hundred and forty eight and made or mentioned to be made between me the said Thomas Charles lord viscount Tracy and the honourable William Tracy my son since deceased of the first part sir Robert Burdet and sir Thomas Charles Keyt baronets of the second part and John Parsons and John Allen Pusey esquires of the third part I am impowered by deed or deeds or by my last will and testament in writing duly executed and attested in the presence of two or more credible witnesses to charge all or any the mannors lands and premisses thereby mentioned to be granted bargained sold released limited and appointed (except as therein is excepted) with any sume or sumes of money not exceeding three thousand pounds in the whole to be paid to such person or persons for such uses intents and purposes as I shall think fitt Now I do hereby by virtue and in pursuance of the powers and authoritys in the said recited indenture contained and in part of execution thereof and by virtue of all other powers and authoritys whatsoever in me being charge all and every the mannors lands and premisses in and by the said recited indenture granted bargained sold released limited and appointed or mentioned so to be (except as therein is excepted) with the full sume of three thousand pounds of lawfull money of Great Britain to be paid to and equally divided amongst my three daughters Frances Anne and Elizabeth to and for their own respective use and benefitt within one month next after my decease And whereas in and by the said recited indenture I am also impowered by deed or deeds writing or writings or by my last will and testament executed and attested as therein is mentioned to grant limitt and appoint all those messuages or tenements lands hereditaments and premisses lying and being in Hayles in the county of Gloucester called or known by the name of Sheepphouse and Sheepphouse Closes then and now in the tenure or occupation of William Baylis his undertenants or assigns at the yearly rent of thirty pounds unto or to the use of my son John Tracy for and during the term of his naturall life without impeachment of waste at and under the yearly rent of a pepper corn And I am likewise thereby impowered by the ways and means last before mentioned or by any of them to grant limitt and appoint all those the tythes of and in Didbrooke in the said county of Gloucester unto and to the use of my said son John Tracy for his life without impeachment of waste in reversion after or expectant upon or subject to the estate for life therein of Catherine Hutchins therein named And I am likewise thereby impowered by the ways and means aforesaid or any of them to grant limitt and appoint all that messuage or tenement garden orchard lands and premisses called by the name of Gardners Breaches scituate and being in Hayles aforesaid then in the possession or occupation of John Crips but now of Richard Crips at the yearly rent of forty pounds unto my said son John Tracy for and during the naturall life of the said Catherine Hutchins at and under the like rent of a pepper corn to and for his own use and benefitt as in and by the said recited indenture relation being thereunto had may more fully and at large appear Now I do hereby by virtue and in pursuance of the powers and authoritys in the said recited indenture contained and in further

*Mr. J. Bartholomew.*

further execution thereof and by virtue of all other powers and authoritys whatsoever in me being devise grant limitt and appoint all those said messuages or tenements lands hereditaments and premisses in Hayles aforesaid called or known by the names of Sheepphouse and Sheepphouse Closes or by whatsoever names or descriptions they or any of them are now called described or known in the tenure or occupation of the said William Baylis his undertenants or assigns at the yearly rent of thirty pounds unto and to the use and benefitt of my said son John Tracy for and during the term of his naturall life without impeachment of waste he paying for the same to the person or persons intituled to the immediate reversion or inheritance thereof the yearly rent of a pepper corn And I do hereby by virtue and in pursuance and further execution of all and every the powers and authoritys aforesaid devise grant limitt and appoint all those the tyths of and in Didbrooke aforesaid unto and to the use and benefitt of my said son John Tracy for his life without impeachment of waste in reversion after or expectant upon or subject to the estate for life therein of the said Catherine Hutchins he paying in like manner the yearly rent of a pepper corn for the same And I do hereby by virtue and in pursuance and further execution of all and every the powers and authoritys aforesaid devise grant limitt and appoint all that said messuage or tenement garden orchard lands and premisses called or known by the name of Gardners Breaches or by whatsoever other names or descriptions they or any of them are now called described or known scituate lying and being in Hayles aforesaid then in the possession or occupation of the said John Crips but now of the said Richard Crips at the yearly rent of forty pounds unto and to the use and benefitt of my said son John Tracy for and during the naturall life of the said Catherine Hutchins at and under the like yearly rent of a pepper corn And whereas in pursuance of the power given and reserved to me in and by the said recited indenture of settlement I have by indenture of lease bearing date the fourth day of December in the year of our Lord one thousand seven hundred and fifty two demised and leased all that messuage or tenement called the Middle House with the lands meadows pastures and feedings with the appurtenances to the same belonging in Toddington in the county of Gloucester aforesaid now in the occupation of Paul Greening at the yearly rent of forty two pounds and heretofore were in the tenure holding or occupation of Jonathan Dobbins but late of Dobbins widow to the aforesaid John Parsons and John Allen Pusey for ninety nine years if my sons John Tracy and Henry Tracy or either of them shall so long live (subject to the rents therein reserved) And by another indenture of lease also bearing date the said fourth day of December one thousand seven hundred and fifty two I have also demised and leased all that messuage or tenement in Toddington aforesaid wherein John Curties the elder heretofore dwelt and all that one yard and three quarters of one yard land and all lands meadows pastures and feedings with the appurtenances thereto belonging now in the occupation of John Diston at the yearly rent of forty pounds and heretofore were in the tenure holding or occupation of John Curtis and afterwards of Richard Clarke but late of Robert Jennings to the said John Parsons and John Allen Pusey for the like term of ninety nine years if my said sons Henry Tracy and John Tracy or either of them shall so long live (subject to the rents therein reserved) And by another indenture of lease also bearing date the said fourth day of December one thousand

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Mr. J. Bartholomew. seven hundred and fifty two I have likewise demised and leased all that messuage or tenement and all lands meadows and pastures thereunto belonging with the appurtenances heretofore in the tenure holding or occupation of William Mutton and late of Anne Mutton widow and now in the holding of John Boulton and also the scite of all that messuage or tenement heretofore called Anne Willis's with all lands meadows pastures and feedings to the same belonging (except as therein excepted) late in the tenure holding or occupation of Thomas Juggins and Anne his wife formerly Anne Willis which said last mentioned messuage or tenement scite of a messuage or tenement lands and premisses are scituate in Toddington aforesaid and now are in the occupation of the said John Boulton at the yearly rent of sixty two pounds and also all that messuage or tenement called Toddington Inn in Toddington aforesaid and all lands meadows pastures and feedings thereunto belonging now in the occupation of William Hitch at the yearly rent of fifty two pounds and heretofore were in the tenure holding or occupation of Warren but late of mr. Serjeant and also all that messuage or tenement and all lands meadows closes pastures feedings commons and appurtenances thereunto belonging in Toddington aforesaid late in the occupation of John Beckett and now in the tenure of Anne Beckett widow and Thomas Beckett her son or one of them at the yearly rent of twenty eight pounds and heretofore were in the tenure holding or occupation of John Read but late of John Stephens to the aforesaid John Parsons and John Allen Pusey for the like term of ninety nine years if my said daughters Frances Tracy Anne Tracy and Elizabeth Tracy or any or either of them shall so long live (subject to the rents therein reserved) all which said severall leases so respectively made as aforesaid are therein and thereby respectively declared to be in trust nevertheless and to the use intent and purpose that the said John Parsons and John Allen Pusey their executors and administrators do and shall permitt and suffer the rents issues and profitts of the premisses thereby demised and leased after deducting thereout the rents thereby reserved and made payable (to be from time to time during the continuance of the said respective demises had received and taken by such person and persons and for such uses intents and purposes as I should at any time thereafter by any deed or writing or by my last will and testament in writing to be by me respectively executed in the presence of two or more witnesses give devise direct limitt and appoint the same and in default thereof by me my executors or administrators Now I do hereby give devise direct limitt and appoint all and every the rents issues and profitts of the said messuage or tenement called the Middle House with the lands meadows pastures and feedings with the appurtenances to the same belonging in Toddington aforesaid now in the occupation of the said Paul Greening at the yearly rent of forty two pounds comprized in the said lease first above mentioned (after deducting thereout the rents thereby reserved and made payable) unto my said son John Tracy for and during so many years of the said term of ninety-nine years as he shall happen to live to and for his own use and benefitt and from and after his decease I give devise direct limitt and appoint the rents issues and profitts of the aforesaid premisses (after deducting thereout the said rents thereby reserved and made payable) unto my said son Henry Tracy for the residue of the said term of ninety nine years (determinable as aforesaid) And I do also hereby give devise direct limitt and appoint the rents issues and profitts

profitts of the said messuage or tenement in Toddington aforesaid *Mr. J. Bartholomew.*  
 wherein John Curtis the elder heretofore dwelt and all that one yard  
 and three quarters of one yard land and all lands meadows pastures and  
 feedings with the appurtenances thereto belonging now in the occupa-  
 tion of the said John Diston at the yearly rent of forty pounds men-  
 tioned and comprized in the said second above mentioned lease to be  
 granted as aforesaid (after deducting thereout the rents thereby reserved  
 and made payable) unto my said son Henry Tracy during so many  
 years of the said term of ninety nine years as he shall happen to live  
 and from and after his decease I give devise direct limitt and appoint  
 the rents issues and profitts of the same premisses (after deducting  
 thereout the said rents thereby reserved and made payable) unto my  
 said son John Tracy for the residue of the same term of ninety nine  
 years (determinable as aforesaid) And I do hereby also give devise  
 direct limitt and appoint the rents issues and profitts of the said mes-  
 suage or tenement and all lands meadows and pastures thereunto belong-  
 ing with the appurtenances heretofore in the tenure holding or occupa-  
 tion of William Mutton and late of Anne Mutton widow and now in the  
 holding of John Boulton and also the scite of all that messuage or tene-  
 ment heretofore called Anne Willis's with all lands meadows pastures  
 and feedings to the same belonging (except as before excepted) late in  
 the tenure holding or occupation of Thomas Juggins and Anne his wife  
 formerly Anne Willis and now in the occupation of the said John  
 Boulton at the yearly rent of sixty two pounds and also all that mes-  
 suage or tenement called Toddington Inn in Toddington aforesaid  
 and all lands meadows pastures and feedings thereunto belonging now  
 in the occupation of the said William Hitch at the yearly rent of fifty  
 two pounds and also all that messuage or tenement and all lands  
 meadows closes pastures feedings commons and appurtenances there-  
 unto belonging in Toddington aforesaid late in the occupation of John  
 Beckett and now in the tenure of the said Anne Beckett widow and  
 Thomas Beckett her son or one of them at the yearly rent of twenty  
 eight pounds mentioned and comprized in the lease last above mentioned  
 to be granted as aforesaid (after deducting thereout the rents thereby  
 reserved and made payable) unto my said three daughters Frances  
 Anne and Elizabeth Tracy for and during so many years of the said  
 term of ninety nine years as they shall jointly happen to live to be  
 equally divided amongst them share and share alike And from and  
 after the decease of any or either of my said three daughters I give  
 devise direct limitt and appoint the same rents and profitts (after  
 deducting thereout the said rents in and by the said last mentioned  
 lease reserved and made payable) to the survivors and survivor of  
 them for the residue of the said term of ninety nine years (deter-  
 minable as aforesaid) And whereas I am likewise impowered in and  
 by the said recited indenture of settlement by deed or deeds or by my  
 last will and testament in writing executed as therein mentioned to  
 charge the said mannor and park of Toddington and all and every the  
 messuages lands tenements hereditaments and premisses scituate within  
 the said mannor and parish of Toddington aforesaid (except the two  
 farms limited to my said late son William Tracy for his life) and all  
 other the hereditaments and premisses in Hayles aforesaid and else-  
 where settled in and by an indenture tripartite bearing date the eighth  
 day of May in the year of our Lord one thousand seven hundred and  
 eighteen with any sume of money not exceeding five hundred pounds  
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*Mr. J. Bartholomew.* or otherwise to borrow the same at interest on security of the said premisses or any part thereof for such purposes and to be paid to such persons and for such uses and intents as I shall think fitt And whereas I have (pursuant to the said power) already borrowed of the said John Allen Pusey by way of mortgage of the whole or some part of the said premisses the sume of four hundred pounds now I do hereby by virtue and in pursuance of the powers and authoritys in the said recited indenture tripartite of settlement of the sixteenth day of September one thousand seven hundred and forty eight contained and in performance thereof and by virtue of all other powers and authoritys whatsoever in me being charge all and every the said mannor and park of Toddington and all and every the messuages lands tenements hereditaments and premisses scituate within the said mannor and parish of Toddington (except as aforesaid) and all other the hereditaments and premisses in Hayles aforesaid and elsewhere settled in and by the said recited indenture tripartite of the eighth day of May one thousand seven hundred and eighteen with the further full sume of one hundred pounds of lawfull money of Great Britain to be paid to my executor hereinafter named within one month next after my decease Provided allways and my will and meaning is that in case my son Thomas Charles Tracy his heirs and assignes do and shall permitt and suffer my present family to live and reside at the capitall messuage tenement or mansion house wherein I now inhabitt and dwell lying in Toddington aforesaid and to hold and enjoy the barns stables courts yards backsides and gardens thereto belonging for and during the space or term of three kalendar months next after my decease without giving them any sort of trouble or interruption in the quiett possession thereof or attempting to live and reside there himself with his family then I direct and order and my will and meaning is that the said sume of one hundred pounds shall not be raised or paid but that the bequest hereby made of the same shall be null and void to all intents and purposes whatsoever any thing hereinbefore contained to the contrary notwithstanding I give and bequeath unto my said three daughters Frances Anne and Elizabeth Tracy the sume of fifty pounds a piece to be paid them out of my personall estate by my executor hereinafter mentioned within three months next after my decease Also I give and bequeath unto my sister in law mrs. Agnes Keyt who now lives with me the sume of fifty pounds of good money as a mark of the esteem and regard I have for her for her great care of and tenderness to me the same to be paid her by my executor hereinafter mentioned out of my personall estate within three months next after my decease All the rest residue and remainder of my plate household goods linnen furniture moneys chattells effects and all other my personall estate of what nature kind or quality soever after payment of my just debts and funerall charges which I order to be thereout paid (except such debts as are any ways charged on my reall estate or any part thereof and which I direct to be paid and born out of such reall estate) I give and bequeath unto my said son John Tracy his executors admors and assignes And I desire to be buryed in the chancell of the parish church of Toddington aforesaid as private as decency will permit of And I do hereby nominate constitute and appoint my said son John Tracy sole executor of this my will And I do hereby revoke all former wills by me at any time heretofore made and declare this only to be and contain my last will and testament In witness whereof I the said Thomas Charles lord viscount Tracy have

to this my last will and testament contained in and wrote upon eight sheets of paper put my hand and seal to each sheet this twenty second day of Aprill in the year of our Lord one thousand seven hundred and fifty six.

Mr. J. Bartholomew.  
Mr. A. Clarke.  
Mr. G. J. Mussett.

TRACY (L.S.)

Signed sealed published and declared by the said Thomas Charles lord viscount Tracy the testator as and for his last will and testament in the presence of us who in his presence and at his request and in the presence of each other have hereunto subscribed our names as witnesses

HEN. WHITAKER.  
GEORGE GILBERT JONES.  
THOMAS ATTWOOD.

Proved at London before the judge the twenty fifth day of June in the year of our Lord 1756 by the oath of the honourable and reverend John Tracy the sole executor to whom admōn was granted he having been first sworn (by commission) duly to administer.

Then Mr. Clarke was further asked :—

(Mr. Hedley.) Have you an examined Copy of that Document?  
I have.

The same was delivered in.

Then Mr. Mussett was further asked :—

(Mr. Hedley.) What do you next produce?

The Will of the Right Honourable and Reverend John Tracy, formerly Warden of All Souls College in the University of Oxford, and Doctor in Divinity, dated the 19th of January 1792.

When was that proved?

The 6th of March 1793, by the Oath of the Right Honourable Henry Lord Viscount Tracy of the Kingdom of Ireland, formerly the Honourable Henry Tracy, the Brother of the deceased and sole Executor.

The same was read as follows :

I John Tracy warden of All Souls College in the university of Oxford do hereby make and declare this to be my last will and testament in manner following First I give to the bursars of All Souls College so being at the time of my decease the sum of five hundred pounds for the use of the said college I also give to my brother the honourable Henry Tracy the sum of one hundred pounds I also give to <sup>my servants Frances Marshall & William Mander</sup> if they shall be living with me at the time of my decease one year's wages <sup>to each</sup> over and above what shall be then due to him or her All the rest of my personal estate if there be any after my debts and funeral expences are paid I give unto my sister the honourable m<sup>rs</sup> Frances Tracy And I desire to be buried in the common place of burial belonging to the place where I shall happen to die in as private a manner as may be Lastly I appoint my brother the honourable Henry Tracy whole & sole executor of this my last will  
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No. 35.

Sic orig.

Sic orig.

*Mr. G. J. Mussett.* and testament to which I set my hand and seal this nineteenth day of  
*Mr. A. Clarke.* January in the year of our Lord one thousand seven hundred and ninety two.

JOHN (L.S.) TRACY.

Proved at London the 6<sup>th</sup> day of March 1793 before the worshipful James Henry Arnold doctor of laws and surrogate by the oath of the right hoñble Henry lord viscount Tracy of the kingdom of Ireland (formerly the hoñble Henry Tracy) the brother of the deceased and sole executor to whom admion was granted having been first sworn duly to administer.

Then Mr. Clarke was further asked :—

(*Mr. Hedley.*) Do you produce an examined Copy of that Document?

I do.

The same was delivered in.

Mr. Hedley stated, That he put this Will in to prove that John the Seventh Lord Viscount Tracy died without Issue; that he next proposed to prove that Robert Packington Tracy, Second Son of Thomas Charles the Fifth Viscount by Lady Frances his Second Wife, died unmarried.

Then Mr. Mussett was further asked :—

(*Mr. Hedley.*) Do you produce a Will?

I produce an official Copy which has been proved in our Register as an Original; it is an official Copy from Bombay of the Will of Robert Packington Tracy.

(*Mr. Attorney General.*) What is the Nature of this Copy of a Will?

It is sent from the official Court of Bombay, and received as the Original, and Probate granted, the Original being deposited at Bombay; this purports to be signed by William Shaw, the Registrar.

(*Mr. Hedley.*) Are there other Wills sent from Bombay in the same Manner?

Yes; and from some other Places we receive them, and grant Probate upon them.

Has Probate been granted on that Will?

Yes; it is dated Bombay Town Hall, 24th August 1748; registered and collated with the Original the said Day, Bombay Town Hall, 19th October 1748; a true Copy, collated from the Registry, and sealed.

Is that the Seal of the Supreme Court of Bombay?

I do not know the Fact; but I have great Reason to doubt it.

Where did you find it?

In the Strong Room of the Prerogative Court of Canterbury.

What is the Date of it?

The Date of it is the 29th of July 1748, and it is proved in the Prerogative Court of Canterbury, 15th June 1749.

To whom was Probate granted of that Will?

It is proved by the Oath of the Right Honourable Thomas Charles Lord

Lord Viscount Tracy, the natural and lawful Father of the Deceased and sole Executor. *Mr. G. J. Mussett.*  
*Mr. A. Clarke.*

The Counsel, being asked for what Purpose he produced this Will, stated, That it was to prove the Death of the Party, and that he died without Issue, Administration being granted to his Father.

The same was read as follows :

In the name of God Amen I Robert Packington Tracy being in an ill state of health but of sound mind and memory do make this my last will and testament I name and appoint my friend m<sup>r</sup> Laurence Sullivan trustee to this my will and my sole executor my dearly beloved father Thomas George Tracy lord Tracy and to my said father I give and bequeath all that I am possessed of or may belong to me in any shape whatsoever In witness whereof I have set my hand in presence of the witnesses under mention'd Dated in Bombay this 29<sup>th</sup> July 1748.

No. 36.

ROB<sup>t</sup> P. TRACY.

Sign'd in the presence of us

THOMAS SATCHWELL ROBERT WENT.

Bombay Townhall y<sup>e</sup> 24<sup>th</sup> Aug<sup>t</sup> 1748 registred & collated with y<sup>e</sup> original the s<sup>d</sup> day

W<sup>m</sup> SHAW reg<sup>r</sup>. (L.S.)

Bombay Townhall the 19<sup>th</sup> Oct<sup>r</sup> 1748 A true copy Collated from y<sup>e</sup> registry & attested by

W<sup>m</sup> SHAW reg<sup>r</sup>. (L.S.)

Proved at London before the judge on the 15<sup>th</sup> day of June 1749 by the oath of the right honourable Thomas Charles lord viscount Tracy the natural and lawful father of the deceased and sole executor named in the said will by the names and title of Thomas George Tracy lord Tracy to whom adm<sup>on</sup> was granted being first sworn by commission duly to administer.

Then Mr. Clarke was further asked :—

(Mr. Hedley.) Do you produce an examined Copy of that Will ?  
I do.

The same was delivered in.

Mr. Hedley stated, That he next proposed to prove that Henry Tracy, Third Son of Thomas Charles the Fifth Viscount by Lady Frances his Second Wife, succeeded his Brother John Tracy, Seventh Viscount, and became the Eighth Viscount.

Then Mr. Mussett was further asked :—

(Mr. Hedley.) What do you produce ?

This is the Will of the Honourable Henry Tracy of Portman Street in the Parish of St. Mary-le-bone in the County of Middlesex, dated the 3d of December 1783, proved with the Codicil the 3d of June 1797 by the Oath of the Right Honourable Henrietta Susanna, Spinster, the Daughter and sole Executrix.

The same was read as follows :

(46.2.)

In



Mr. G. J. Mussett.  
Mr. A. Clarke.

No. 37.

In the name of God Amen I the honorable Henry Tracy of Portman street in the parish of Saint Marylebone in the county of Middlesex do make this my last will and testament for the sole purpose of leaving my dear daughter Henrietta Susanna Tracy under the care and guardianship of such persons as I can most entirely rely upon for the kindest attention to her during her minority I do therefore hereby constitute and appoint my dear brother the honorable and reverend John Tracy warden of All Souls college in the university of Oxford and William Strode of Northaw in the county of Hertford esquire guardians of my said dear daughter and I do make it my earnest request to them to accept of and act in such guardianship And as this my will relates only to the event of my dying during the minority of my daughter I do therefore in that event constitute and appoint the said John Tracy and William Strode my executors until such time as my daughter attains her age of twenty-one years and upon her attaining that age I do nominate and appoint her sole executrix In witness whereof I have hereunto set my hand and seal this third day of December one thousand seven hundred and eighty three.

HEN. TRACY (L.S.)

Signed sealed published and declared by the  
above named Henry Tracy as and for his  
last will and testament in the presence  
of us

JOHN CROSSMAN W. EVANS.

Upon my decease I give and bequeath the following sums to the persons undermentioned if living at that time To miss Mary Harrison one thousand pounds to miss Constant Harrison one thousand pounds and to the following servants if living with me or my daughter at that time the following sums To Mary Kindall four hundred pounds to Elizabeth Podmore four hundred pounds to Robert Cook two hundred pounds to every servant that has lived with me above three years fifty pounds each to those that have lived under that time one year's wages.

Portman street, May y<sup>e</sup> 2<sup>d</sup> 1796.

TRACY.

N.B. I desire to be buried at Toddington in as private a manner as possible.

Proved at London with a codicil 3<sup>rd</sup> June 1797 before the worshipful John Sewell doctor of laws and surrogate by the oath of the right hoñble Henrietta Susanna Tracy spinster the daughter and sole executrix named in the will she having attained her age of twenty-one years to whom admōn was granted having been first sworn duly to administer.

Then Mr. Clarke was further asked :—

(Mr. Hedley.) Do you produce an examined Copy of that Will?  
I do.

The same was delivered in.

Mr. Hedley stated, That he next proposed to prove that Charles Tracy, the Second Son of John the Third Viscount by Elizabeth his Wife, died without Issue, by producing an Epitaph from a Monument in Toddington Church.

Then

Then Mr. Clarke was further asked :—

Mr. A. Clarke.  
Mr. G. J. Mussett.

(Mr. Hedley.) What do you produce?

A Copy of the Inscription on a Monument in Toddington Church, which I have examined with the Inscription.

It is a true Copy?

It is.

The same was delivered in, and read as follows :

M. S. nobiliss<sup>i</sup> juvenis Caroli Tracy filii tertii honoratiss<sup>i</sup> dñi Joh<sup>n</sup> vicecomitis Tracy juvenis non natalibus solum sed et egregiâ indole et summis ingenii dotibus illustriss<sup>i</sup> qui post pueriles annos foeliciter studiis liberalibus impensos migravit Oxonium Ibi sesquiano vix dum elapso non sine suspiriis omnium quibus innotuit immature (proh dolor) obiit 3<sup>o</sup> die Maii 1676.

No. 38.

Sed heus lector oculis cave si enim vivum nosses cujus jam mortui epitaphium legis verendum esset ne instar Niobes indulgens lacrymis rigeres in statuum.

Ὁν φιλεῖ Θεὸς θνησκεί νεός.

The Counsel were informed, That it appeared on the Face of the Pedigree that he was the Second Son, whereas the Inscription just read stated him to be the Third, and they were directed to explain that.

Mr. Hedley stated, That he was not at the present Moment in a Situation to explain that, but that Inquiry should be made into the Facts: That he proposed next to prove that Ferdinando, described in the Pedigree as the Third Son, married Catherine Keck, and that they had a Son named Ferdinando, who died young.

Then Mr. Mussett was further asked :—

(Mr. Hedley.) What do you produce?

A Book of Administrations for the Year 1783. There is an Entry, headed Ferdinando Tracy, that on the 7th of June 1683 a Commission issued to the Honourable Catherine Tracy, the natural and lawful Mother of Ferdinando Tracy an Infant, late of Saint Dunstan in the East, London.

The same was read as follows :

Junii 1683.

No. 39.

Ferdinando Tracy Septimo die em<sup>t</sup> com<sup>o</sup> honorabili Catherini Tracy matri n<sup>r</sup>ali et Itimæ Ferdinando Tracy infantis nup p<sup>o</sup>æ S<sup>c</sup>i Dunstani in Occideñ London def h<sup>e</sup>ntis &c. ad adstrand<sup>o</sup> bona jura et cred<sup>o</sup> d<sup>c</sup>i def de bene &c. jurañ.

Then Mr. Clarke was further asked :—

(Mr. Hedley.) Do you produce an examined Copy of that Document?

I do.

The same was delivered in.

Mr. Hedley stated, That Ferdinando and Catherine had a Second Son, John; that he referred to the Will of John the Third Viscount to prove that Ferdinando the eldest Son died an Infant; and that he next

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proposed

Mr. G. J. Mussett. proposed to prove that John, the Second Son of the Honourable Ferdinando Tracy by Catherine his Wife, married Ann daughter of Sir Robert Atkins.

(To Mr. Mussett.) Do you produce the Will of Mrs. Tracy?

Yes; it is the Will of Anne Tracy of Coscombe in the County of Gloucester, Widow.

How does she describe herself?

Of Coscombe in the County of Gloucester, Widow.

Widow of whom?

Nothing more is stated in the Description.

What is the Date?

It is dated the 12th of June 1746.

When was it proved?

The 29th of March 1762, with a Codicil.

The same was read as follows :

No. 40.

In the name of God Amen I Anne Tracy of Coscombe in the county of Gloucester widow being in good health and of sound and disposing mind and memory praised be God do make and ordain this my last will and testament in manner following (that is to say) first I commend my soul to God who gave it in hopes of a joyful resurrection thro' the merits of my blessed and merciful Redeemer And for my body it is my desire that it may be buried in the vault belonging to my family in the parish church of Stanway with no more expence than what decency requires attended only by my own servants & some of my tenants to be bearers & that six pounds may be given to the poor of that parish and that neither rings or money to buy mourning may be given to any one on that occasion it being my principal care and design as to my worldly affairs that after my just debts are duly paid and satisfied the residue of my estate may be left to those of my family who have not had so plentiful a provision as the rest of them have had therefore as for such worldly goods and estate wherewith it hath pleased God to bless me I give and dispose thereof as followeth And first I give and bequeath unto my beloved children Thomas Tracy Catherine Tracy Martha Tracy Elizabeth Tracy and Frances Tracy all the distributive part share & proportion of the personal estate of my late dear husband John Tracy esq<sup>re</sup> who died intestate and also all other my goods chattels personal estate arrears of rent and whatever I shall die possessed of to be equally divided between them share and share alike except the plate jewells and other things herein-after mentioned that is to say To my son Thomas Tracy I give the picture of my son Keck & the diamond ring which he gave me and my table clock to my daughter Travell I give ten guineas to pay for a copy of her dear father's picture if I do not give it in my life time with my new silver coffee pot To my daughter Catherine Tracy I give all the jewells she is in possession of (except the largest diamond which I desire may be given to my daughter Frances Tracy (or the value of it which they shall choose) and to my said daughter Catherine Tracy I give a pair of my largest silver candlesticks & my snuffers belonging to them & the stitch'd quilt us'd in her chamber & the service of china which I bought for my table To my daughter Martha Tracy I give all the jewells she is now in possession of with the other pair of my large silver candlesticks & my

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& my mahogany chest & the card table given me by my brother Chute & my tea table and all belonging to it To my daughter Elizabeth Tracy I give all the jewells she is now in possession of with my silver hand candlestick & what belongs to it my silver milk pot & the painted bureau given me by my uncle Keck To my daughter Frances Tracy I give all my rings not yet disposed of with my gold watch & chain & seal belonging to it & all my lockets & a pair of silver candlesticks fit for wax candles with the snuffers belonging to them and the tent-stich-screen given me by the lady Tracy & the wrought bed not yet made up I desire that all the rest of my plate household linen china pictures & books may be equally divided between my son Thomas Tracy & my four youngest daughters To my grandsons m<sup>r</sup> Francis Travell & m<sup>r</sup> Ferdinando Favell I give ten guineas to each of them to buy them a piece of plate To m<sup>rs</sup> Mary Dodwell I give the picture of herself (drawn by m<sup>r</sup> Worsdale) and make it my request to her (if she thinks I have discharged the trust faithfully which s<sup>r</sup> William Dodwell repos'd in me in the care of her education) that she will in gratitude to my memory be a friend to those of my family who shall most stand in need of her favour and assistance To my servants Anne Newman & Hannah Chesley (if they are with me at the time of my death) I give to each of them five pounds And to all my other servants who shall then belong to my family I give to each two guineas And I do make appoint & ordain my daughters Catherine Martha & Elizabeth Tracy joint executrixes of this my last will I desire the silver boiler which was given me by my uncle Keck may be continu'd in my family if any of my sons or daughters will pay the summ of seventy pounds (at which price it was valued to me) towards the discharge of my debts but if they refuse it I desire it may be offer'd to m<sup>rs</sup> Mary Dodwell on the aforesaid terms And I do declare these two sheets to each of which I have subscribed my name (the whole being written with my own hand) to be my last will & testament In witness whereof I have hereunto set my hand & seal the 12<sup>th</sup> day of June in the year of our Lord 1740 & in the 14<sup>th</sup> year of the reign of our sovereign lord George the 2<sup>d</sup> by the grace of God of Great Britain France & Ireland king defender of the faith &c.

*Mr. G. J. Mussett.*

ANNE TRACY. (L.S.)

Sign'd seal'd publish'd & declar'd by the said Anne Tracy to be her last will and testament in the presence of us who have hereunto set our hands as witnesses at the request of the said Anne Tracy

JOHN CAPEN.  
JN<sup>o</sup> APPLGATH.  
ANNE ARNOLD.

A codicil or supplement to the last will and testament of Ann Tracy of Coscomb in the county of Gloucester widow. I the said Ann Tracy do give and bequeath unto my four daughters Catharine Tracy Martha Tracy Elizabeth Tracy and Frances Tracy all that my leasehold mesuage or tenement with the appurtenances in Wood Stanway in the said county of Gloucester late in the tenure of Robert Gibbs and which were granted to me by my son Robert Tracy esq<sup>r</sup> for ninety-nine years if my son Thomas Tracy esq<sup>r</sup> the said Elizabeth and Frances Tracy

(46.2.)

*Mr. G. J. Mussett.*  
*Mr. A. Clarke.*

Tracy or either of them should so long live as by the indenture of lease bearing date the fifteenth day of December last past will appear to hold the said leasehold premises unto my said four daughters their executors administrators and assigns from and immediately after my decease for and during all the then residue and remainder of the said term of ninety-nine years determinable as aforesaid they my said daughters from time to time paying the rent and discharging and performing the covenants reserved and contained in the said lease and on the lessees part to be paid done and performed and I order and direct this present codicil to be a part of my last will and testament hereunto annexed In witness whereof I the said Ann Tracy have hereunto sett my hand and seal the fourth day of February in the year of our Lord one thousand seven hundred and forty-six.

ANNE TRACY. (L.S.)

This codicil was read unto the said Ann Tracy the testatrix and by her signed sealed and delivered in the presence of us

JN<sup>o</sup> APPLGATH.  
MARTHA NASH.

Proved at London with a codicil the 29<sup>th</sup> of March 1762 before the worshipful George Harris doctor of laws and surrogate by the oaths of Catherine Tracy and Elizabeth Tracy spinster the daughters and two of the executrixes to whom adm<sup>on</sup> was granted having been first sworn duly to administer power reserved of making the like grant to Martha Tracy spinster the daughter and other executrix when she shall apply for the same.

(*To Mr. Clarke.*) Do you produce an examined Copy of this Will?  
I do.

The same was delivered in :

Mr. Hedley stated, That he should put in the Will of Francis Keck, to show that John Tracy had Six Sons by Anne his Wife.

(*To Mr. Mussett.*) What do you produce?

The Will of Francis Keck of Great Lew in the County of Oxford, Esquire, dated the 29<sup>th</sup> Day of June 1728, and proved the 27<sup>th</sup> of January 1728.

The same was read as follows :

No. 41.

In the name of God Amen I Francis Keck of Great Tew in the county of Oxon esquire doe make my last will and testament in manner following I most humbly commend my soul into the hands of my most gracious God and my body to be buried in the earth in hope of an happy resurrection to eternall life through the infinite mercies and goodness of God in and by our blessed Lord and Saviour Jesus Christ As concerning the disposition of my worldly estate I haveing lately married my dear daughter to s<sup>r</sup> John Dutton of Sherborne and paid him sixteen thousand pounds as a marriage portion and obliged my heirs and executors to pay him four thousand pounds more within six months after my decease and my said dear daughter having in consideration

consideration thereof assigned to mee the sune of two thousand pounds charged or chargeable on my Oxonshire estate for or towards her marriage portion soe that the said two thousand pounds is now part of my personall estate and for the better and more sure payment of the said four thousand pounds which it is my will and desire should bee most punctually paid I doe hereby charge and subject my two messuages or houses in Bell Yard London and all my estate as well of inheritance as leasehold in the county of Middlesex to for and with the payment and security thereof and if there be occasion would have them sold for that purpose And my will is and I desire my dear daughter Dutton should have the things herein-after mentioned (in case I shall not in my lifetime have delivered them all to her as I have already delivered some of them) viz. her dear mothers best pearle necklace and her dear mothers silver dressing plate and the blew satin mantle laced with a broad rich gold lace which her dear mother was christened in and the quilt of her dear mothers work not yet made up or ever used and the pillar cases of her owne dear mothers worke And I do hereby give to my dear son m<sup>r</sup> John Keck his heires and executors for ever all my lands and estate in and about Sandford near the city of Oxon And as concerning the reversion and inheritance in fee simple of my dear wifes estate in Hampshire and the Isle of Wight and in Berkshire which by the settlements thereof I have power to dispose off subject to the uses limited to my dear son and his issue male and the joynture now charged thereon for his wife and to the estate limited to my said dear daughter and the heires of her body all which uses and limitacons I would have stand and continue in full force and virtue and doe hereby allow ratifye and confirm the same I do give all my said dear wifes estates (subject to the debt owing thereon to my dear fathers executors) unto my said dear son and the heires of his body and for want of such issue I give all my said estate in Berkshire unto my cosin Anthony Keck and his heires and all my said estate in Hampshire and the Isle of Wight I give to my nephew m<sup>r</sup> John Nicoll for the terme of his life without impeachment of wast and after his decease to the first son of the said John Nicoll and the heires male of the body of such first son with the like remainder to the second third and all and every other son and sons of the said John Nicoll severally and successively one after another according to their seniority of age and priority of birth and the heires male of their respective bodyes issuing the elder and his heires male to take before the younger and his heires male and for default of such issue to my nephew Anthony Chute esq. of the Vine in Hampshire and to his heires And as concerning the the reversion and inheritance of all my estate in the county of Oxon (except the lands and hereditaments in Sandford near Oxford by mee devised to my dear son as aforesaid) And as concerning the reversion and inheritance of all my estates in the countys of Wilts and Warwick all which by the settlement made on my sons marriage I have power to dispose off subject to the uses thereby limited to my son and his wife for joynture and to the issue male of my son I doe hereby give and devise all the same estates to my dear son and the heires of his body and for want of such issue to my said daughter Dutton and the heires of her body and for want of such issue I doe hereby give all my said estate in the county of Warwick unto my said cosin Anthony Keck and to his heires for ever And I doe give all my said estates in the county of Oxon (except as aforesaid) and in the county of Wilts unto Ferdinando Tracy (third son of my nephew John Tracy esq.) for the life of the said Ferdinando and after his

*Mr. G. J. Mussett.*

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decease

Mr. G. J. Mussett.

decease to the first son of the said Ferdinando and the heires male of the body of such first son with the like remainder to the second third and all and every other the son and sons of the said Ferdinando severally and successively one after another according to their seniority of age and priority of birth and to the heires male of their respective bodyes issueing the elder and the heires male of his body to take before the younger and the heires male of his body and for default of such issue to Anthony Tracy fourth son of my said nephew for the life of the same Anthony and after his decease to the first second third and all and every other the son and sons of the said Anthony Tracy severally and successively one after another according to their seniority of age and priority of birth and to the heires male of their respective bodyes issueing the elder and the heires male of his body to take before the younger and the heires male of his body and for default of such issue to Thomas Tracy fifth son of my said nephew for the life of the said Thomas and after his decease to the first second and all and every other the son and sons of the said Thomas severally and successively one after another according to their seniority of age and priority of birth and to the heires male of their respective bodyes issueing the elder and the heires male of his body to take before the younger and the heires male of his body and for default of such issue to William Tracy sixth son of my said nephew Tracy for the life of the said William and after his decease to the first second and all and every other the sons of the said William severally and successively one after another according to their seniority of age and priority of birth and to the heires male of their respective bodyes issueing the elder and the heires male of his body to take before the younger and the heires male of his body and for default of such issue to John Tracy second son of my said nephew for the life of the said John Tracy the son and after his decease to the first second and all and every other the son and sons of the said John Tracy the son severally and successively one after another according to their seniority of age and priority of birth and to the heires male of their respective bodyes issueing the elder and the heires male of his body to take before the younger and the heires male of his body and for default of such issue unto Robert Tracy eldest son of my said nephew for the life of the said Robert and after his decease to the first and all and every other the son and sons of the said Robert severally and successively one after another according to their seniority of age and priority of birth and to the heires male of their respective bodyes the elder and the heires male of his body to take before the younger and the heires male of his body and for default of such issue to my owne right heires And my mind and will is that my said cosin Ferdinando Tracy and all and every his brothers when he and they respectively be in the actual possession of the lands and premises hereby devised to him and them shall have power to make and lymitt thereout a joynture not exceeding five hundred pounds per annum to any wife he or they shall respectively marry for the life of such wife or woman before or after her marriage soe as nevertheless the premisses shall not at any one time stand charged in possession or reversion with more than one such joynture made by any of my said cosins And all the devises to my said cosin Ferdinando and to his brothers and to his and their sons in taylor male as aforesaid I doe hereby will and declare to be with and under this limittacon and provisoe that hee and they shall and do immediately after and as soon as hee and they shall bee by virtue of this my will in the present and actuall possession of all or any the premisses hereby devised use and  
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take on him and them and stile name and write himselfe and themselves and his and their issue male by the surname of Keck and by noe other surname whatsoever And in case of refusall or neglecting soe to doe by my said cosins or any of their sons or issue male the estate hereby given to him or them soe refusing or neglecting to doe for life or in tayle male shall cease determine and be utterly void as if the person or persons soe refusing or neglecting were naturally dead And in such case the person or persons next in remainder who shall then use and take the surname of Keck as aforesaid shall enter into and hold and enjoy the premisses hereby to him and them devised according to the purport and true intent of this my will provided also and I doe hereby declare that the severall devises hereby by me made to my said cosin Anthony Keck and his heires of my estates in Warwickshire and Berkshire are soe made and intended upon this trust and confidence in him and them reposed And my mind desire and will is that if and soe soon as any of his grandsons by discent from him or their mother or by deed grant or devise by or under him or her shall happen to come into the actuall possession of all or any the said devised premisses or of any part or parts of them that then every one of the said grandsons doe and shall immediately from such time of his or their soe being in the actuall possession of any of the premisses leave and change his and their surname of James and use and take on him and them and still name and write himselfe and themselves and his and their children by the surname of Keck only and noe other surname whatsoever and in case of any of their neglect or refusall so to doe my will and desire is that my heires at law should enter upon him or them soe neglecting or refusing and out them and have and retaine the said estates in their own right and to their own use if such entry or eviction can by law or equity bee made and effected I doe give unto s<sup>r</sup> John Dutton and to my dear daughter his wife the sume of one hundred pounds a peece and to my dear daughter my sons wife one hundred pounds to buy her a peece of plate in remembrance of mee And I give to my dear sister Vernon one hundred pounds and to my brother m<sup>r</sup> Nicoll and to my dear sister his wife one hundred pounds a peece and to m<sup>rs</sup> Seyliard my dear wifes half sister one hundred pounds and to my said cosin Anthony Keck and to my cosin his wife one hundred pounds a peece And I give to m<sup>r</sup> Chetle one hundred pounds and to my servant Richard Cole fifty pounds and to Thomas Aske my servant at Pusey fifty pounds and to every one of my other servants that shall be living with me at my house at the time of my decease one yeares wages over and above what shall be then due to them And I give to the poor of Great Tew Pusey Blunsden Baddesley and Hampstead ten pounds a peece to be given and distributed in such manner as my executor shall think fitt and order my will and desire is to be buried by my dear wife at Blunsden And I leave to my dear son and executor the ordering of my funerall the expence whereof I would not have to be great And all the residue and overpluss of my reall and personall estate whatsoever after and subject to the payment of my debts legacyes and funerall expences I give to my said dear son his heires executors and administrators respectively for ever and I hereby make my said dear son sole executor of this my last will and testament not doubting of his care and kindness in the due and punctual performance of the same And I do hereby revoke all former wills by me made In witness whereof I have to this my last will conteyned in this and the four foregoing sheets of paper subscribed my name at the bottome of each of the same sheets and to this last have sett  
my

*Mr. G. J. Mussett.*

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*Mr. G. J. Mussett.*  
*Mr. A. Clarke.*

my hand and seale and my seale at the top of the first sheete where they are tyed together this nine and twentieth day of June anno Dñi 1728 and in the second yeare of the reigne of our soveraigne lord king George the second &c.

FRAN. KECK. (L.S.)

Signed sealed and published by Francis Keck esq. as and for his last will and testament in the presence of us who in the presence of the said Francis Keck have subscribed our names as witnesses thereunto

RICHARD HATTON.

EDW. PORTER.

GILES JAMES.

Probatum Londini &c. coram domino &c. vicesimo septimo die mensis Januarij anno Domini 1728 juramento Johannis Keck armigeri filii et executoris &c. cui &c. de bene &c. vigore commiſ jurat.

(*To Mr. Clarke.*) Do you put in a Copy of that Will?  
I do; it is correct.

The same was delivered in.

Mr. Hedley stated, That he proposed next to prove the Death of all those Sons without Male Issue.

(*To Mr. Mussett.*) Do you produce the Will of Robert Tracy?

I do; it is the Will of Robert Tracy of Stanway in the County of Gloucester, dated the 16th of October 1766, proved the 4th of February 1768 by the Oath of John Tracy, Esquire, called in the Will John Tracy Atkyns, the Brother and one of the surviving Executors.

Is there any Mention made of Thomas Tracy?

With a "Power reserved of making the like Grant to Thomas Tracy Esquire, the Brother also, and Vansittart Hudson, Esquire, the other Executors, when they or either of them shall apply for the same."

The same was read as follows:

No. 42.

In the name of God Amen I Robert Tracy of Stanway in the county of Gloucester esquire being of sound and disposing mind memory and understanding thanks be to God do this sixteenth day of October one thousand seven hundred and sixty-six make and ordaine this my last will and testament in manner and form following that is to say First and principally I recommend my soul to the mercy and protection of Almighty God being fully persuaded by his Holy Spirit that through the death and passion of my dear Lord and Saviour Jesus Christ I shall obtain full pardon and remission of all my sins and inherit everlasting life to which Holy Trinity to one eternal and undivided Deity be all honour and glory for ever and ever Amen And as to such worldly estate wherewith it hath pleased God to intrust me I dispose of the same as followeth Whereas I entered into one bond or obligation bearing date on or about the eighteenth day of December one thousand seven

seven hundred and forty seven in the penal sum of eight hundred pounds or some such sum with condition to pay to my brother Thomas Tracy his heirs executors and administrators the sum of four hundred pounds within six months after my decease pursuant to an agreement in writing between me and the said Thomas Tracy of the same date with the said bond Now if the said Thomas Tracy or his heirs executors or administrators shall and will at the time of my death relinquish all right title claim and interest whatsoever in and to the said sum of four hundred pounds and also deliver up to my executors the said bond and agreement to be cancelled then I do hereby give and devise the said sum of four hundred pounds in equal shares and proportions to my three sisters Martha Tracy Elizabeth Tracy and Frances Guidickens late Frances Tracy And I do also give to my said three sisters the further sum of six hundred pounds in like shares and proportions and also interest for the said two respective sums of four hundred pounds and six hundred pounds herein and hereby respectively given and appointed to them after the rate of four pounds for every one hundred pounds by the year from the time of my decease until the respective principal sums are paid and satisfied to them respectively And if either or any of my said sisters Martha Tracy Elizabeth Tracy and Frances Guidickens should die in my lifetime then my will and intention is that the share or shares of her or them so dying either in the said sum of four hundred pounds or six hundred pounds shall go to the survivors or survivor of them her or their executors administrators or assigns Item after all my just debts funeral expences and legacys given or that may be given by this my will are fully paid and satisfied I give and bequeath all my goods chattels and personal estate whatsoever and wheresoever and all and every sum and sums of money that shall or may be due and in arrear for rent from all and every part of my estate at the time of my decease unto my loving wife Anna Maria Tracy her executors administrators and assigns for her sole use and benefit Item I give bequeath and devise all and every my manors messuages farms lands tenements hereditaments and premises with their and every of their rights members and appurtenances in the countys of Gloucester and Worcester or elsewhere in the kingdom of England and all my estate use benefit trust in reversion remainder or expectancy therein or thereto subject to the several charges limitations estates remainders and uses limited and declared to all my brothers severally and their respective first and every other sons in tail male in and by my marriage settlement bearing date the fifth day of August one thousand seven hundred and thirty five expressed limited and declared and likewise subject to a term of two hundred years created by a deed bearing date the twenty sixth day of September one thousand seven hundred and sixty for the raising three thousand pounds for my sisters immediately after my decease to Vansittart Hudson of Sunbury in the county of Middlesex esquire John Frederick of Burwood in the county of Surry esquire and Edmund Boehm of Size Lane in the parish of S<sup>t</sup> Antholins in the city of London esquire and the survivor of them and the heirs of such survivor for ever upon the special trusts and confidences and to and for the intents and purposes hereinafter limited and declared that is to say That in case I the said Robert Tracy and my brothers John Tracy Atkyns Thomas Tracy and Anthony Keck should all of us die without issue male or the issue male of my body or of either or any of my said brothers should die before he or they attain the age of twenty one years then and in such case I

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Mr. G. J. Mussell.

*Mr. G. J. Mussett.* will direct and appoint that my said trustees and the survivor of them and the heirs of such survivor shall stand and be seized and possessed of all and every the said manors messuages lands tenements and hereditaments in the countys of Gloucester and Worcester or elsewhere and the reversion or reversions of such estate and all my estate use benefit and trust in reversion and expectancy therein and thereto to the several uses intents and purposes following (that is to say) To the use and behoof of Henrietta Charlotte Keck eldest daughter of my said brother Anthony Keck for and during the term of her natural life And from and after her decease to the use and behoof of the first and every other son of the said Henrietta Charlotte Keck and the respective heirs males of their bodys respectively to take according to their seniority of age and priority of birth every elder of such sons and the heirs male of his body being always preferred and to take before the younger of them and the heirs male of his body and in default of such issue to the use and behoof of Susan Keck second daughter of my said brother Anthony Keck for and during the term of her natural life and from and after her decease to the use and behoof of the first and every other son of the said Susan Keck and the respective heirs males of their bodys respectively to take according to their seniority of age and priority of birth every elder of such sons and the heirs male of his body being always preferred and to take before the younger of them and the heirs male of his body And in default of such issue to the use and behoof of my nephew Francis Travell eldest son of John Travell late of Severford in the county of Oxford esquire deceased for and during the term of his natural life and from and after his decease to the use and behoof of the first and every other son of the said Francis Travell and the respective heirs male of their bodys respectively to take according to their seniority of age and priority of birth every elder of such sons and the heirs male of his body being always preferred and to take before the younger of them and the heirs male of his body And in default of such issue to the use and behoof of Ferdinando Tracy Travell the second son of the said John Travell for and during the term of his natural life and from and after his decease to the use and behoof of the first and every other son of the said Ferdinando Tracy Travell and the respective heirs males of their bodys respectively to take according to their seniority of age and priority of birth every elder of such sons and the heirs male of his body being always preferred and to take before the younger of them and the heirs male of his body And in default of such issue to the use and behoof of my sister Frances Guidickens late Frances Tracy the wife of Gustavus Guidickens of Heston in the county of Middlesex esquire for and during the term of her natural life and from and after her decease to the use and behoof of the first and every other son of the said Frances Guidickens by the said Gustavus Guidickens or by any after taken husband and the respective heirs male of their bodys respectively to take according to their seniority of age and priority of birth every elder of such sons and the heirs male of his body being always preferred and to take before a younger of them and the heirs of his body And in default of such issue to the use and behoof of the eldest daughter of my said sister Frances Guidickens by the said Gustavus Guidickens or by any other after taken husband and the heirs of her body issuing And in default of such issue then to the second third fourth fifth and every other daughter of my said sister Frances Guidickens by the said Gustavus Guidickens or any after taken husband severally and successively according to their seniority of age and priority of birth and the several and respective heirs

*Mr. G. J. Mussett.*

heirs of the bodys of such daughters issuing every elder of such daughters and the heirs of her body being always preferred and to take before a younger of them and the heirs of her body And if my said sister Frances Guidickens should have no issue living at her decease or any issue she may leave at the time of her death should all happen to die before she or they attain the age of twenty one years and my said nieces Henrietta Charlotte Keck and Susan Keck and my said nephews Francis Travell and Ferdinando Tracy Travell should all and every of them die without issue male or the issue male of the bodys of all and every my said nieces and nephews should all die before he or they attain the age of twenty one years then my will and intention is that the said trustees Vansittart Hudson esquire John Frederick esquire and Edmund Boehm esquire and the survivor of them and the heirs of such survivor do and shall in such case stand and be seized and possessed of all my said estate to the use and behoof of the eldest daughter of my said niece Henrietta Charlotte Keck by any husband or husbands lawfully begotten and the heirs of her body issuing And in default of such issue to the second third fourth fifth and every other daughter of my said niece Henrietta Charlotte Keck by any husband or husbands lawfully begotten severally and successively according to their seniority of age and priority of birth and the several and respective heirs of the bodys of such daughters issuing every elder of such daughters and the heirs of her body being always preferred and to take before a younger of them and the heirs of her body And in default of such issue to the use and behoof of the eldest daughter of my said niece Susan Keck by any husband or husbands lawfully begotten and the heirs of her body issuing And in default of such issue to the second third fourth fifth and every other daughter of my said niece Susan Keck by any husband or husbands lawfully begotten severally and successively according to their seniority of age and priority of birth and the several and respective heirs of the bodys of such daughters issuing the elder of such daughters and the heirs of her body being always preferred and to take before the younger of them and the heirs of her body And in default of such issue to the use and behoof of the eldest daughter of my said nephew Francis Travell on the body of any wife or wives lawfully begotten and the heirs of her body issuing And in default of such issue to the second third fifth and every other daughter of my said nephew Francis Travell on the body of any wife or wives lawfully begotten severally and successively according to their seniority of age and priority of birth and the several and respective heirs of the body of such daughters issuing every elder of such daughters and the heirs of her body being always preferred and to take before a younger of them and the heirs of her body And in default of such issue to the use and behoof of the eldest daughter of my said nephew Ferdinando Tracy Travell on the body of any wife or wives lawfully begotten and the heirs of her body issuing And in default of such issue to the second third fourth fifth and every other daughter of my said nephew Ferdinando Tracy Travell on the body of any wife or wives lawfully begotten severally and successively according to their seniority of age and priority of birth and the several and respective heirs of the body of such daughters issuing the elder of such daughters and the heirs of her body being always preferred and to take before a younger of them and the heirs of her body And in default of such issue to my heirs and assigns for ever Provided always that it shall and may be lawful to and for every person and

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Mr. G. J. Mussett. persons to whom any estate use and trust is herein devised limited and declared from and after such time as they and each of them shall be in the actual possession of the premises or any part thereof by virtue of any devise or limitation herein contained to limit a jointure to any wife or wives which he or they may marry out of all or any of the manors lands and tenements devised provided such lands and tenements so limited in jointure do not exceed in value one hundred pounds by the year for every thousand pounds which he or they shall receive for the fortune of such wife or wives And further that every such person and persons being in the actual possession of the said premises by virtue of any devise herein contained may make or execute one or more lease or leases of all or any part of the said premises (save only the capital messuage commonly called Stanway Hall with the appurtenances and all such lands as have been usually occupied and enjoyed therewith) for any term of years not exceeding one and twenty years Provided there be reserved on every such lease or leases the best and most improved rent that can be got for the respective lands therein comprized Provided also that at the time of making such lease or leases the person to whom such lease or leases are made do make and execute one or more counterpart or counterparts thereof Provided also and I do hereby declare that all and every the devises limitations and uses to all and every the person and persons above mentioned to whom any devise limitation or use of and in and to my real estate in and by this my will is limited or declared is and are hereby declared to be upon this condition that all and every the person and persons mentioned shall within twelve calendar months from and after they shall respectively come into possession of the premises or any part thereof by virtue of any limitation devise use or title claimed or devised under this my will or any clause or part thereof respectively take upon himself herself and themselves the surname of Tracy only and shall in all deeds and writings stile and write him her or themselves by the surname of Tracy only and shall bear the arms of the Tracy family and no other surname or arms whatsoever and that all and every the person and persons aforesaid shall within twelve months next after such possession accrued respectively procure one or more act or acts of parliament to be passed for changing and altering his her and their and every of their respective names to and for the surname of Tracy only And further if all any or either of the persons to whom any estate use devise limitation or remainder is herein limited made or declared shall refuse for the space of twelve months (~~except as before excepted~~) next after he she or they shall be in possession of all or any part of the premises by force of any devise limitation or use to take upon him her or themselves the surname of Tracy and to procure one or more act or acts of parliament as aforesaid then and in such case I do revoke and make void all and every the limitations uses trust and benefit for or in respect of such person or persons in and by this my will limited declared or contained and moreover that from and after such refusal it shall and may be lawful to and for every such person and persons as shall be entitled by virtue of the next and immediate remainder to the premises or any part thereof to enter hold and enjoy the same or any part thereof in as full and ample manner as if such person or persons so refusing was or were actually dead And if I the said Robert Tracy and my said brothers John Tracy Atkyns Thomas Tracy and Anthony Keck should all of us happen to die without any son living at our or either of our deaths or the sons of either or any of us should die before he or they attain the

age of twenty one years and the aforesaid sum of three thousand pounds and the interest thereof shall then be actually raised and paid and all and singular the premises shall be actually discharged therefrom or so soon after as the same shall be raised and paid and the premises be discharged therefrom then I charge all my manors messuages farms lands tenements and hereditaments in the several countys of Gloucester and Worcester with the sum of two thousand pounds to be paid and payable in the manner and proportions following that is to say the sum of five hundred pounds part of the said sum of two thousand pounds to my neice Frances Travell eldest daughter of my late sister Ann Travell deceased who was the wife of John Travell late of Swerford in the county of Oxford esquire also deceased and the like sum of five hundred pounds part of the said sum of two thousand pounds to my neice Ann Travell second daughter of my said sister Ann Travell and the like sum of five hundred pounds part of the said sum of two thousand pounds to my neice Catharine Travell third daughter of my said sister Ann Travell and the like sum of five hundred pounds being the remainder of the said sum of two thousand pounds to my neice Agnes Travell fourth daughter of my said sister Ann Travell at her age of twenty-one years with interest after the rate of four pounds for every one hundred pounds by the year to be computed from and after the aforesaid contingencys on which the said sum of two thousand pounds is to be raised shall happen And if either or any of my said neices Frances Travell Ann Travell Catharine Travell and Agnes Travell shall happen to die before her or their share or shares of the said sum of two thousand pounds shall become due and payable then my will is that the share or shares of her or them so dying of and in the said sum of two thousand pounds shall go and be paid to the survivors or survivor of my said neices as an addition to their said legacys the same to be likewise equally divided amongst them (if more than one) share and share alike at such time and with such interest as their original shares are hereby directed to be paid and if but one then the same to be paid to such only neice at the time and with such interest as her original share is hereby directed to be paid And if my said four neices Frances Travell Ann Travell Catharine Travell and Agnes Travell shall all die before all the said contingencys have happened then I revoke the said legacy of two thousand pounds so given to them as aforesaid and hereby direct my said estate shall not be charged with the same or any part thereof Item I give twenty pounds to the poor people of the parish of Stanway aforesaid to be disposed of in such manner as my executors shall see fit Item I give five pounds apiece to all my servants who shall be in my service at the time of my decease over and besides what shall be due to any of my aforesaid servants for wages And I do hereby nominate constitute and appoint the said John Tracy Atkyns Anthony Keck Thomas Tracy and Vansittart Hudson executors of this my last will and testament to whose great care and fidelity I commend all things relating to my family desiring that my body may be buried in the parish church of Stanway in a decent but not costly manner Item I give the sum of fifty pounds apiece to such of my said executors John Tracy Atkyns Anthony Keck Thomas Tracy and Vansittart Hudson as shall act in the said executorship for their care and trouble therein And I do hereby revoke and make void all former and other wills and testaments by me at any time or times heretofore made and do publish and declare this only to be my last will and testament In witness whereof I the said Robert Tracy have to this my last will and testament contained in eight sheets of

(46.2.) N paper

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*Mr. A. Clarke.*

paper fixed together at the top and sealed with my own coat of arms set my hand only to the seven first sheets and to the last sheet have set my hand and seal the day and year first above written.

ROBERT TRACY. (L.S.)

Signed sealed published and declared by the above named Robert Tracy as and for his last will and testament in the presence of us who at his request and in his presence and in the presence of each other have subscribed our names as witnesses thereunto as we have likewise done to a duplicate of the above written will at the same time  
CYPRIAN TAYLOR Stanway Gloucestershire  
— THOMAS TAYLOR of the same — JAMES BAUGHAM of the same.

Proved at London the 4th February 1768 before the worshipful William Wynne doctor of laws surrogate by the oath of John Tracy esq. called in the will John Tracy Atkyns the brother and one of the surviving exors to whom admōn was granted having been first sworn duly to administer power reserved of making the like grant to Thomas Tracy esq. the brother also and Vansittart Hudson esq. the other exors when they or either of them shall apply for the same

(*To Mr. Clarke.*) Do you produce a correct Copy of the Will of Robert Tracy of Stanway?

I do.

The same was delivered in.

Mr. Hedley stated, That when he attempted to prove the Pedigree from the Heralds College it was with the Intention of introducing Two Wills; that he proposed to prove those Two Wills now de bene esse, the Will of Sir Richard Tracy of Stanway and Sir John Tracy of Stanway, referred to in the last Page but one of the printed Case, on the right-hand Side of the Leaf.

(*To Mr. Mussett.*) What do you produce?

I produce the Will of Sir Richard Tracy of Stanway in the County of Gloucester, Knight and Baronet, dated the 17th of July 1637, and proved the 6th of December 1637.

The same was read as follows :

No. 43.

In the name of God Amen The 17<sup>th</sup> day of Julye an<sup>o</sup> Dm<sup>o</sup> 1637 I s<sup>r</sup> Richard Tracy of Stanway in y<sup>e</sup> countye of Glouc<sup>r</sup> kn<sup>t</sup> & baronett being weake in body but of good and perfect memory (thankes be to God therefore) doe here make & declare my last will & testam<sup>t</sup> in manner following imprimis I commend my spirit into the handes of Allmightie God who gave it relying only uppon the all sufficient merits of Jesus Christ my Redeemer for the remission of my sinnes & the salvation of my sinfull soule and for my body I commit it to the earth whereof it was made to be buried within the church of Stanway at the discretion of my executor hereafter named w<sup>th</sup>out funerall pompe Item I give and bequeath unto my 2 sonnes Richard and John Tracy

sevvally the some of one hundred marks a pece to be paid unto them by my executor during their minorities & after they attayne the severall ages of xxi yeeres then the some of two hundred poundes a pece during

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the terme of their naturall lives the s<sup>d</sup> sevall <sup>annuities</sup> legacies to be paid unto them at the usual feasts of S<sup>t</sup> Michaell the Archangell & the Annunciation of S<sup>t</sup> Mary the Virgin by even & equall portions the first paym<sup>t</sup> to beginne at such of the said feasts as shall first happen next after my decease the s<sup>d</sup> sevall & respective annuities to bee issuing & going forth of all or any of my mannors messuages landes or tenem<sup>ts</sup> and if it shall happen the said annuities to bee behinde & unpaid in p<sup>rte</sup> or in all over & above the space of 20 dayes next after either of the s<sup>d</sup> feast dayes then my will is & accordingly I doe devise & appointe that it shall & may bee lawfull to & for my s<sup>d</sup> 2 sonnes respectivelie into all or any of my said mannors messuages landes or tenem<sup>ts</sup> (my wives jointure excepted) to enter & distreyne & the distresse or distresses then & there had & founde to take leade & carry away & the same to keepe & deteyne untill the said annuities & the arrearages of them (if any bee) shallbee fully satisfied and paid unto my s<sup>d</sup> 2 sonnes & either of them respectivelie and when it shall please God that my said two sonnes or either of them shall dye then my will & meaning is that the s<sup>d</sup> annuities shall not be paid to the s<sup>v</sup>ivor of them or to the executor or adm<sup>str</sup>ator of them or either of them but that in such case the same shall become extinguished as if the same had never bene given nor bequeathed and that the benefit thereof shall res<sup>p</sup>ly accrue unto my executor but my will & desire is that my wellbeloved wyfe (in case she live sole & unmarried shall have the disposing of the s<sup>d</sup> annuities of one hundred markes a yere for the maintenance & education of my s<sup>d</sup> 2 sonnes during their minorities in such manner as she in her discretion shall thinke most fit for their good (whome I especially trust in this behalfe well knowing her tender care over them & thereon much relyinge) Provided neverthelesse that it shall not be lawfull to or for my s<sup>d</sup> sonnes Ric<sup>h</sup> and John Tracy or either of them to graunt lease assigne or set over or by any wayes or meanes whatsoever directlie or indirectlie to conveye or passe away the s<sup>d</sup> s<sup>v</sup>rall & respective annuities or any p<sup>rte</sup> thereof for any time or terme whatsoever w<sup>ch</sup> if in case they or either of them shall doe contrary to this my meaninge that then the same soe graunted or passed away shall cease and determine & shall not be due payable or leviab<sup>le</sup> out of any my said mannors messuages landes or tenements and to avoide all doubt & ambiguitie my meaning is that my said 2 sonnes shall have noe benefit by the death of each other nor no augmentation of annuitie thereby nor that both the s<sup>d</sup> annuities shall ever bee united but the s<sup>d</sup> one hundrede marks annuitie to bee paid during their sevall minorities & as they attayne severallie to the age of xxi yeeres then the same to cease & the s<sup>d</sup> annuitie of 200<sup>l</sup>. then & not before to beginne as afores<sup>d</sup> Item I give & devise unto my daughter Phillip & her children the some of fifteene hundred poundes of lawfull money of England w<sup>ch</sup> my will is shall remayne in the hands of my executor untill my brotherlaw FitzW<sup>m</sup> Connisbye & my s<sup>d</sup> executor shall agree to dispose of it in lands or otherwise to bee set<sup>l<sup>d</sup></sup> uppon my s<sup>d</sup> daughter for her maintenance during her life & after her decease then to the benefit of her children but my will & meaning is & accordingly I do declare & appointe that untill the s<sup>d</sup> fifteene hundred pounds shall bee disposed of (as afores<sup>d</sup>) my s<sup>d</sup> executor & his heires shall pay unto my s<sup>d</sup> daughter yeerelie during her life the some

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*Mr. G. J. Mussett.*  
*Mr. A. Clarke.*

of six skore poundes for the consideration of the said money and after her death the same some to be likewise paid to the use & benefit of her s<sup>d</sup> children at the 2 usuall feasts before named by equall portions & the first paym<sup>t</sup> to beginne at such of the s<sup>d</sup> feast dayes as shall first happen next after my decease Item I give and bequeath unto my beloved wyfe the some of five hundred poundes of current English money to bee disposed of at her will & pleasure & to bee paid unto her w<sup>h</sup>in 2 yeeres next after my decease and I further give unto her my s<sup>d</sup> wiffe her plate & jewells the furniture of her chamber her coach & horses & my little bay nagge called Hibbetts Item I give to the poor people of the sevall p<sup>r</sup>ishes of Stanway Haffielde Tewkesbury & Winchcombe the some of five poundes a yere to bee delivered by my executor wh<sup>n</sup> one month after my decease unto the churchwardens of the sevall parishes by them to be distributed yet soe as the common beggars may have least parte thereof Lastly I doe hereby make nominate & appoint my wellbeloved sonne Humphrey Tracey sole executor of this my last will & testam<sup>t</sup> to whome I give & devise all the rest of my estate both reall and psonall beseeching Allmightie God to blesse him therew<sup>th</sup> and I doe hereby revoke & annihilate all former and other wills by me made or published In wisse whereof I the s<sup>d</sup> s<sup>r</sup> Richard Tracy have to both these sheets of paper subscribed my name the day and yere first above written.

RICHARD TRACY.

Published & declared & the worde annuities in the first leafe being first interlined in the presence of

W<sup>m</sup> HILL.  
JOHN GYNES.

Probatum apud Londoñ coram venēli viro dño Henrico Marten milite commissario &c. sexto die mensis Decembris anno Dñi 1687 juramento Humfredi Tracy a<sup>r</sup> filii dñi defuncti et executoris &c. cui &c. de bene &c. coram Ambrosio Jenkes clico viçe commissionis jura<sup>t</sup>.

(*To Mr. Clarke.*) Do you produce an examined Copy of that Will?  
I do.

The same was delivered in.

(*To Mr. Mussett.*) Do you produce the Will of Sir John Tracy?  
Yes; this is the Will of Sir John Tracy of Stanway in the County of Gloucester, Baronet, dated the 12<sup>th</sup> of June 1673, and proved the 10<sup>th</sup> of May 1678.

The same was read as follows:

No. 44.

In the name of God Amen I s<sup>r</sup> John Tracy of Stanway in the county of Gloucester baronett being in good health and of sound and perfect mind and memory praised be God for the same and calling to mind the certainty of death and the uncertainty of the time when doe make and ordayne this my last will and testament in writing in manner and forme following First I most humbly surrender upp my soule into the hands of Almighty God my Maker hoping by his infinite goodnes and mercy through Jesus Christ my Lord and only Saviour and by his meritts to receive free pardon for all my sinnes and eternal life and

Mr. G. J. Mussett.

salvation and for my body I will it be buried in decent manner by my executors hereafter named in the church of Stanway And as touching my reall and personal estate wherewithall it hath pleased God to blesse me in this world I doe hereby make this my last will and testament disposing of the same in manner and forme following Whereas upon or shortly before my marriage with my now wife dame Juliana one of the daughters of s<sup>r</sup> Erasmus de la Fontaine late of Kirby Bellars in the county of Leicester knight deceased I the said s<sup>r</sup> John Tracy have settled and conveyed diverse of my manno<sup>rs</sup> messuages farms lands tenements and hereditaments in the countye of Worcester and Gloucester to the use of myself for one hundred yeares if I shall soe long live and afterwards to the use of my said wife for the terme of her life for her joynture with the remainder to the first sonne of my body to be begotten on the body of the said dame Juliana and the heirs males of the body of such first sonne issuing and for default of such issue to the use of the second third and other the sonne and sonnes of my body on the body of the said dame Juliana to be begotten severally and successively one after another as they and every of them shall be in seniority and priority of age and birth and of the severall and respective heirs males of the bodyes of all and every such sonne and sonnes issuing th'elder of such sonnes and the heires males of his body issueing being alwayes preferred before the younger of such sonnes and the heires male of their bodyes issueing and for default of such issue to the use of such afterborne sonne of me the said s<sup>r</sup> John Tracey and the said Juliana as should happen to be borne after my death and to the heires males of his body issueing and for default of such issue to the use and behoofe of the right heires of mee the said s<sup>r</sup> John Tracy for ever And as to some other of my manno<sup>rs</sup> messuages farmes lands tenements and hereditam<sup>ts</sup> I have by the same conveyance settled and conveyed them to the same uses (omitting onely the use to my said wife for her life) soe as that the inheritance remainder or reversion in fee for want of issue male by me begotten on the body of my said wife remaineth in mee and my right heires and is at my dispose And whereas I am also siezed in fee to mee and my heires of the said manno<sup>r</sup> of Stanway and the capitall messuage or mannor house thereunto belonging with the appurtenn<sup>cs</sup> and of all other my manno<sup>rs</sup> farmes messuages lands tenements and hereditam<sup>ts</sup> with th'appurtenances in Church Stanway and in diverse other places in the said county of Gloucester not comprized in the aforesaid settlement or conveyance expectant upon a terme of two hundred years which was devised by my late brother s<sup>r</sup> Humphry Tracy baronett (who was heretofore owner of all and singular the said manners messuages lands tenements and premises) by his last will and testament in writing unto John Barton late of the Middle Temple London esquire now serjeant att law and my cozen William Stratford esquire for the severall ends and purposes in the said will mentioned who have made and granted severall termes for yeares thereout to severall persons and afterwards assigned the said terme of two hundred yeares to my loveing friend Hopton Shuter of the Inner Temple London esquire (in pursuance of a decree in chancery) in trust for me my heires executo<sup>rs</sup> and assignes who alsoe upon my desire did upon or before my marriage assigne the same terme to s<sup>r</sup> Thomas Meres knight and Erasmus De Ligne esquire or some other persons or trustees nominated by the said s<sup>r</sup> Erasmus de la Fontaine as a collaterall security for my said wives joynture and for a provision for raising portions for such daughters as it should please God I should

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begett on the body of my said wife in case I happen to dye without issue male and afterwards to be in trust for me my heires and assignes or such person or persons as I should by my last will and testament in writing direct or appoint as by the severall conveyances and assignement whereunto relaçon being had more at large appeareth And whereas I have noe issue neither male nor female as yet borne of the body of my said wife now I the said s<sup>r</sup> John Tracy for a full and plaine declaraçon of my will and meaning how all and every my said manno<sup>r</sup> messuages farmes lands tenements and hereditaments and how the said terme of two hundred yeares or so much thereof as shall bee to remaine and come att the time of my decease and the benefitt and profit of all my said manno<sup>r</sup> lands tenements and hereditaments shall goe and be disposed off after my death in case I shall dye without issue begotten on the body of my said wife borne in my lifetime or after my death doe hereby ratifie allow and confirme the said joynture made by mee unto or uppon or to the use of my said wife for her life as fully and amply as the same is thereby lymitted and granted and all the uses and trusts contayned in the said deeds or indentures made by mee upon or before my said marriage as aforesaid And I doe hereby further declare my mind and will to bee that the said s<sup>r</sup> Thomas Meers and Erasmus De Lygne or the survivo<sup>r</sup> or survivo<sup>r</sup> of them and all and every other person or persons that hath or have or shall come to have any estate or interest by or under the said lease of two hundred yeares shall assigne and convey the same and all their estate and interest therein and the residue of the said terme of two hundred yeares that shall bee to come at my death without issue as aforesaid to the said Hopton Shuter his executors administrators and assignes yet subject to and lyable to make good the said joynture made by mee to my said wife before her marriage as aforesaid and for the raising of porçons for such daughters as I shall have by my said wife in case I dye without issue male by her as aforesaid as is lymitted appointed and expressed in the said assignment of the said terme of two hundred yeares made by the said Hopton Shuter to the said s<sup>r</sup> Thomas Meres and Erasmus De Ligne as aforesaid and not otherwise and upon further trust that the said Hopton Shuter his executors and assignes shall permitt and suffer my said wife during her widdowhood for soe long a tyme or soe much of the said terme of two hundred yeares as shall be then to come and as she shall continue my widdow and unmarried and no longer to inhabite and enjoy the capital messuage or manno<sup>r</sup> house of Stanway wherein I now reside with the gardens orchards barnes stables outhouses and edifices thereunto belonging with the appurten<sup>n</sup>cs and all the profits thereof to her owne use without rendring any accompt for the same or other matter or thing whatsoever and likewise the rents issues and proffits of all and singular other the manno<sup>r</sup> messuages farmes lands tenements and hereditaments in the said lease comprized soe long and for such time as she shall continue my widdow and unmarried in case I have no issue by her and not otherwise and soe as she doe pay and sattisfie thereout the yearly annuities or rent charges which were charged or are issuing and payable out of the same to any person or persons by the graunt of the said John Barton and William Stratford or by the will devise or other disposiçon or graunt of the s<sup>d</sup> Humphrey Tracy and if my said wife shall faile to doe the same or shall happen to marry againe that then it is my will and meaning in case I dye without issue by my said wife as aforesaid that the said Hopton Shuter his executors and assignes shall and may receive and take the rents issues and profitts of all and singular the manno<sup>r</sup>

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manno<sup>rs</sup> messuages farmes lands tenements hereditaments and premisses in and by the said lease of two hundred yeares comprized other than such part thereof as is conteyned within my said wives joynture and all those lands alsoe after her death and shall thereout pay and satisfie all and singular the aforesaid annuities and rent charges and other rents whatsoever the premises are charged or incumbred with and my owne debts if any shall happen to be unpaid and also all such other legacies hereafter mençoned as my personall estate shall not extend to pay and shall deduct all such costs and charges as he the said Hopton Shuter his executors administrato<sup>rs</sup> or assignes shall be put unto or susteine by the receiueing of the rents issues and profitts of the premisses and paying the same over as aforesaid or otherwise by reason of the premisses and trust hereby reposed in him as aforesaid and afterwards shall pay whatsoever shall then remaine of the cleere yearly rents and profitts of the premisses to the proper hands of my said wife or to suche person or persons as she shall appoint to receiue the same during her widdowhood and noe longer And I doe further will declare devise lymitt and appoint that after the marriage or death of my said wife the overplus of the yearly rents and profitts more then what will pay and satisfie the said annuity rent charges legacies and other incumbances shall be paid by the said Hopton Shuter his executo<sup>rs</sup> administrato<sup>rs</sup> or assignes unto such person or persons to whom the freehold or inheritance of the premises shall belong or apperteine by vertue of any the lymittaçons appointm<sup>ts</sup> or devises hereinafter mençoned and that the said lease or residue of the said terme of two hundred years shall wayte and attend upon the freehold and inheritance of the premises And as touching the said freehold and inheritance of all and singular the said manno<sup>rs</sup> messuages farms lands tenements hereditaments advowsons rectories tithes and premisses whatsoever in the said counties of Gloucester and Worcester or either of them which were heretofore the lands of the said s<sup>r</sup> Humphrey Tracy and which by the death of s<sup>r</sup> Richard Tracy baronett his sonne came or descended to mee the said s<sup>r</sup> John Tracy other than what are in joynture to my said wife as aforesaid and the reverçon of those lands soe in joynture as aforesaid as alsoe of all other my manno<sup>rs</sup> lands tenements and hereditaments with the appurteñnces I doe hereby give devise lymitt and bequeath the same and every part and parcell thereof with their appurteñnces from and imediatly after my dyeing without issue male as aforesaid by my said wife or of some afterborne sonne by me begotten on the body of my said wife as aforesaid to Charles Tracy esquire second sonne of the right honorable John lord viscount Tracy for and during his naturall life and from and after the determinaçon of that estate to the use and behoofe of s<sup>r</sup> William Juxon of Little Compton in the county of Gloucester knight and baronett and William Dutton of Sherborne in the said county of Gloucester esquire and their heirs for and during the naturall life of the said Charles Tracy to the intent onely to preserve the contingent uses hereafter mençoned and for that purpose to make entrees to and upon the premisses and any part thereof as there shall be occasion but not to take any benefitt or profitt thereby unto themselves And after the decease of the said Charles Tracy I give devise bequeath lymitt and appoint the same premisses to the use and behoofe of the first sonne of the body of the said Charles Tracy lawfully to be begotten and to the heires males of the body of such first lawfully to be begotten and for default of such issue to the use and behoofe of the second sonne of the body of the said Charles Tracy lawfully

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lawfully to be begotten and to the heires males of the body of such second sonne lawfully to be begotten and for default of such issue to the use and behoof of the third sonne of the body of the said Charles Tracy lawfully to be begotten and to the heires males of the body of such third sonne lawfully to be begotten and soe in like manner to every other sonne and sonnes of the body of the said Charles Tracy lawfully to be begotten successively one after another as they shall be in priority of birth and seniority of age and to the heirs male of the body of such other sonne and sonnes the elder and the heires males of his body being always preferred before the younger and the heires males of his body And for default of such issue male of the body of the said Charles Tracy I doe devise lymitt and appoint the said manno<sup>rs</sup> lordshipps messuages farms lands tenements hereditaments and all other the premisses with th'appurteñnces and the reverçon and the reverçons thereof to Ferdinando Tracy third sonne of the said John lord viscount Tracy for and during his naturall life and from and after the determinaçon of that estate to the use and behoof of the said s<sup>r</sup> William Juxon and William Dutton for and during the naturall life of the said Ferdinando Taacy to the intent only to preserve the contingent uses hereinafter mençoned and for that purpose to make entries to and upon the premises as there shall be occasion but not to take any benefitt or proffitt thereby unto themselves And after the decease of the said Ferdinando Tracy I give and bequeath the same premises to the use and behoofe of the first sonne of the said Ferdinando Tracy lawfully to be begotten and to the heires males of the body of such first son lawfully to be begotten and for default of such issue to the use and behoofe of the second sonne of the body of the said Ferdinando Tracy lawfully to be begotten and to the heires males of the body of such second sonne lawfully to be begotten and for default of such issue to the use and behoofe of the third sonne of the body of the said Ferdinando Tracy lawfully to be begotten and to the heires males of the body of such third sonne lawfully to be begotten and soe in like manner to every other sonne and sonnes of the body of the said Ferdinando Tracy lawfully to be begotten successively one after another and to the heires males of the body of such other sonne and sonnes the elder and the heires males of his body being always preferred before the younger and the heires males of his body and for default of such issue I doe hereby devise lymitt and appoint the said manno<sup>rs</sup> lordshipps messuages, farmes lands tenements hereditaments and all other the premisses with their appurteñnces and the reverçon and reverçons thereof to Robert Tracy the first sonne of the right honorable Robert lord viscount Tracy father of the said John lord viscount Tracy by his the said Robert lord viscount Tracyes last wife for and during the naturall life of the said Robert Tracy and from and after the determinaçon of that estate to the use and behoofe of the said s<sup>r</sup> William Juxon and William Dutton and their heires for and during the naturall life of the said Robert Tracy to the intent only to preserve the contingent uses hereafter mentioned and for that purpose to make entreyes to and upon the premisses as there shall be occasion but not to make any proffitt or benefitt thereby unto themselves And after the decease of the said Robert Tracy I give and bequeath the same premisses to the use and behoofe of the first sonne of the body of the said Robert Tracy lawfully to be begotten and the heirs males of the body of such first sonne lawfully to be begotten and the heires male of the body of such first sonne lawfully to be begotten and for default of such issue

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to the use and behoofe of the second sonne of the body of the said Robert Tracy lawfully to be begotten and to the heires males of the body of such second sonne lawfully to be begotten and for default of such issue to the use and behoofe of the third sonne of the body of the said Robert Tracy lawfully to be begotten and to the heires males of the body of such third sonne lawfully to be begotten and soe in like manner to every other sonne and sonnes of the body of the said Robert Tracy lawfully to be begotten successively one after another and to the heires males of the body of such other sonne and sonnes the elder and the heires males of his body being alwayes preferred before the younger and the heires males of his body and for default of such issue male of the body of the said Robert Tracy to the use and behoofe of Benjamin Tracy second sonne of the said Robert lord viscount Tracy by his said last wife for and during the naturall life of the said Benjamin Tracy and from and after the determinaçon of that estate to the use and behoofe of the said s<sup>r</sup> William Juxon and William Dutton and their heires for and during the naturall life of the said Benjamin Tracy to the intent onely to preserve the contingent uses hereafter mençoned and for that purpose to make entries to and upon the premisses as there shall be occasion but not to make any proffitt or benefitt thereby unto themselves and after the decease of the said Benjamin Tracy to the use and behoofe of the first sonne of the body of the said Benjamin Tracy lawfully to be begotten and to the heires males of the body of such first sonne lawfully to be begotten and for default of such issue to the use and behoofe of the second sonne of the body of the said Benjamin Tracy lawfully to be begotten and to the heires males of the body of such second sonne lawfully to be begotten and for default of such issue to the use and behoofe of the third sonne of the body of the said Benjamin Tracy lawfully to be begotten and soe in like manner to every other sonne and sonnes of the body of the said Benjamin Tracy lawfully to be begotten successively one after another and to the heires male of his body being alwayes preferred before the younger and the heires males of his body and for default of such issue to the use and behoofe of William Tracy esquire eldest sonne of the said John lord viscount Tracy for and during the terme of his naturall life and from and after the determinaçon of that estate to the use and behoofe of the said s<sup>r</sup> William Juxon and William Dutton and their heires for and during the naturall life of the said William Tracy to the intent onely to preserve the contingent uses hereafter mençoned and for that purpose to make entryes to and upon the premisses as there shall be occation but not to take any benefitt or profitt thereby unto themselves and after the decease of the said William Tracy to the use and behoofe of the first son of the body of the said William Tracy lawfully to be begotten and to the heires males of the body of such first sonne lawfully to be begotten and for default of such issue to the use and behoofe of the second sonne of the body of the said William Tracy lawfully to be begotten and to the heires males of the body of such second sonne lawfully to be begotten and for default of such issue to the use and behoofe of the third sonne of the body of the said William Tracy lawfully to be begotten and to the heires males of the body of such third sonne lawfully to be begotten and soe in like manner toe eÿy other sonne and sonnes of the body of the said William Tracy lawfully to be begotten successively one after another and to the heires males of the body of such other sonne and sonnes th'elder and the heires males of his body being alwayes preferred before the younger and the heires males of his

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body and for default of such issue to the use and behoofe of every other sonne and sonnes of the body of the said John lord viscount Tracy lawfully begotten or to be begotten and to the heires males of the body of every such other sonne lawfully begotten or to be begotten the eldest of such sonnes and the heires males of his body being always preferred before the younger of such sonnes and the heires males of his body and for default of such issue to the use and behoofe of the said John lord viscount Tracy and his heires for ever Item I give five pounds to the churchwardens of the parish of Stanway to be distributed to and amongst the poore there Item I give five pounds to the churchwardens of the parish of Winchcombe in the said county of Gloucester to be distributed amongst the poore there Item I give to my well beloved wife dame Juliana Tracy all my plate of what sort soever and such coaches and horses with harnesse and furniture thereunto which I shall have att my death and all the furniture and goods belonging to her lodging chamber in my house att Stanway where she usually lodgeth and wherewith the same are now furnished or shall be furnished att the time of my death or the furniture and goods of any other chamber within my said house att Stanway which she shall choose or elect to bee att her owne free dispose And I further give unto her the use of all other my goods household stuffe chattels cattle stocke and personall estate whatsoever in and about my dwelling house att Stanway aforesaid for and during her widdowhood and noe longer she paying my legacies herein menconed and such of my debts which are not secured or charged upon my said lande in case there shall be any such but if shee shall happen to marry againe after my death then it is my mind and meaning that all my goods household stuffe chattels cattle stock and personall estate whatsoever remaineing in and about my dwelling house att Stanway aforesaid (other then such part thereof as I have before absolutely devised to my saidde are wife) shall be and remaine unto such person who by this my will is to have and enjoy my said house of Stanway from and after the marriage or death of my said wife to be enjoyed or disposed of by him as he shall thinke fitt Item I give and bequeath to every of my servants male and female that shall be liveing with mee att the time of my death the sume of five pounds Item I give and bequeath to my neece m<sup>r</sup> Mary Barcroft the sume of one hundred pounds to be paid unto her within twelve months next after my decease Item I give and bequeath to my said loveing friend Hopton Shuter the sume of one hundred pounds to be paid to him within twelve moneths next after my decease Item to my said worthy and loveing friends s<sup>r</sup> William Juxon and William Dutton the sume of tenn pounds a peece to be paid unto each of them within twelve moneths after my decease to buy each of them a ring or a peece of plate in remembrance of mee Item to my loveing friend m<sup>rs</sup> Mary Clarke the sume of tenn pounds to be paid unto her within twelve moneths next after my decease And of this my last will and testament I doe make appoint and ordaine my said deare and loveing wife during her widdowhood and my said good and loveing friend the said Hopton Shuter my executors and I doe alsoe desire my said wife in all things relateing to my estate and the future management thereof that she take the advice and assistance of the said Hopton Shuter whom I desire to be carefull and faithfull to her therein as he hath beene to me but in case my said wife shall happen to marry after my death her executorshipp to cease and then I doe appoint that the said Hopton Shuter from thenceforth shall be my full absolute and sole executo<sup>r</sup> to all





ARDUS TRACY  
nior filius.

NA  
ni Wye.

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LEANORA  
or Anthonii  
Kingston.

1  
HESTER  
vxor Rowlandi  
Smert.

ROTHEA  
dmundi Bray  
Edro Conway.

A filia  
leton  
stcott,  
ikley  
Vigor,  
geri.

ANNA  
p<sup>ma</sup> filia.

ERTUS MERIELL.  
lius  
indus.

1 ANNA  
vxor Edri  
Hall, com  
Wigorñ,  
arg.

RICHARDUS  
TRACY miles,  
filius  
primogenitus.

ANN.  
Tho.  
nisb  
Han  
cc  
Hære:  
mil

ROBERTUS,  
2 filius.

HUMFREDUS TR.  
filius p<sup>mogenitu</sup>  
aetatis ii. annoru  
1623.

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all intents and purposes whatsoever and as for blacks or mournings to be given att my funerall or otherwise and the whole ordering thereof I leave it to the discretion of my said executo<sup>r</sup>. And I do hereby revoke annull and make void all former wills and testaments whatsoever by mee att any time heretofore made and doe declare these fifteene sheets of paper to every one whereof is subscribed my name att the bottome of each sheet with my owne hand writing and to the labell that affixeth them altogether att the topp I have sett my seale to be my very last will and testament and in witness thereof I have hereunto sett my hand and seale the twelveth day of June in the yeare of our Lord God 1673 and in the five and twentieth yeare of the reigne of our soveraigne lord Charles the second by the grace of God of England Scotland France and Ireland king defender of the faith &c.

*Mr. G. J. Mussell.*  
*Mr. A. Clarke.*

JOHN TRACY.

Signed sealed published and declared by the said s<sup>r</sup>  
John Tracy to be his last will and testament in the  
presence of

ROB. GILLMORE.  
FR. CORBETT.

RICH. STAYLE.  
BEN. TURBUTT.

Probatum apud Londoñ fuit huj<sup>9</sup>mōi testamentum decimo die mensis  
Maij a<sup>o</sup> Dñi milimo sextentesimo septuagesimo octavo coram  
ven<sup>bl</sup>i viro dño Richardo Lloyd milite legum dcore surrogato  
venblis et egregii viri dñi Leolini Jenkins militis etiam ac legum  
dcoris curiæ prerogativæ Cant<sup>re</sup> mağri custodii sive commissarii  
litime constitut<sup>9</sup> juramento dominæ Julianæ Tracy relictæ dicti  
defuncti et superstitis ex<sup>trictis</sup> in hujusmodi testamento nōiā<sup>t</sup> cui  
comissa fuit administraçō om̄ium et singulorum bonorum jurium  
et creditoꝝ dic<sup>t</sup> defunct<sup>9</sup> de bene et fideliter administrand<sup>9</sup> ead<sup>m</sup>  
ad Sancta Dei Evangelia jura<sup>t</sup>.

(*To Mr. Clarke.*) Do you produce a correct Copy of the Will just  
read?

I do.

The same was delivered in.

Mr. Attorney General stated, That having ascertained that the Facts  
contained in the Pedigree, entered in the Book produced in a former  
Part of the Day, were perfectly consistent with the Facts appearing in  
other Evidence, he had no Objection to the same being put in, if it  
appeared to their Lordships that the Book was sufficiently identified as  
being one of a Series of Returns to Visitations.

The Counsel was informed, That he might put in the Pedigree.

Then THOMAS WILLIAM KING Esquire was again called in,  
and further examined as follows:

*T. W. King, Esq.*

(*Mr. Hedley.*) Do you produce an examined Copy of the Pedigree  
you have referred to, contained in the Book you have produced?

I do.

The same was delivered in, and read as follows. (*Vide* No. 45.)

The Witnesses were directed to withdraw.

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Mr. Hedley stated, That he was not at present prepared with further Evidence, and that the Claimant was about to apply to the House for Permission to lodge an additional Case previous to the next Hearing.

The Counsel were directed to withdraw.

Proposed to adjourn this Committee *sine Die* ;

Accordingly,

Adjourned *sine Die*.

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Poor Law Commission, Ireland.

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MINUTES OF EVIDENCE

TAKEN

BEFORE THE HOUSE OF LORDS

RELATIVE TO

CERTAIN RETURNS

MADE BY THE POOR LAW COMMISSIONERS TO ORDERS OF THE HOUSE

RESPECTING

The APPOINTMENT of JOHN BUTLER to the SITUATION of  
RETURNING OFFICER of the CLONMEL UNION.

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Evidence of Mr. WILLIAM STANLEY,  
16th March 1841.

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Ordered to be printed 16th March 1841.

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(41.1.)



*Die Martis, 16<sup>o</sup> Martii 1841.*

**THE** Order of the Day being read for the Attendance of Mr. William Stanley,  
Secretary to the Irish Poor Law Commissioners;

Evidence re-  
specting certain  
Returns made by  
the Poor Law  
Commissioners,  
Ireland.

Mr. WILLIAM STANLEY is called in; and having been sworn, is examined  
as follows:

Mr. W. Stanley.

16th March 1841.

1. ARE you Secretary to the Poor Law Commissioners of Ireland?  
I am one of the Assistant Secretaries to the Commission.

2. Who are the Poor Law Commissioners of Ireland?  
The Poor Law Commissioners of England and Wales are also the Poor Law Commissioners for Ireland; and there is a resident Commissioner in Ireland who acts as a Board there.

3. Who is that Commissioner?  
Mr. Nicholls.

4. Is he the only Poor Law Commissioner who sat at that Board in Ireland in the Month of February 1840?  
Yes.

5. And in February 1839?  
I should say yes. I am not sure whether he may have been in Ireland in February 1839; but if he were in Ireland, he was the only Commissioner in Ireland.

6. In the Absence of the Commissioners from whom do you take your Orders?

A certain Portion of the Orders are transmitted from London by the Commissioner for Ireland who may be there at the Time. Another Portion of the Orders,—the minor Portion, for the mere ordinary Correspondence of the Department, we receive from the Assistant Commissioner acting for him merely for that Purpose, limited to that particular Object, and not empowered to give more general Instructions or more particular Instructions.

7. Are all the Proceedings of the Board entered in a Minute Book?

All the Proceedings of the Board are entered upon a Book that we call the Register of Papers; but the Minute Book contains only the very material Proceedings of the Board. There is a Register of Papers kept in pursuance of the Poor Law Amendment Act; and that contains a Register of the Minutes which the Commissioners make, or the Board makes, upon every Letter passing through the Board Room.

8. Is every Letter received and written entered in a Letter Book?  
No; we keep no Letter Book.

9. Then where are the Letters entered which you do receive?  
We receive a Number of Letters, and they are entered upon the Register.

10. Have you got that Register with you?  
I have the Register for the Period referred to.

11. Does it contain the Matters concerning the Clonmel Union in the Month of February 1839?  
It does.

12. Has any Person had Access to that Book since the 1st of March who is not a Member of the Poor Law Commission?  
Or a Clerk employed by the Poor Law Commissioners.

(41.1.)

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13. Has

*Mr. W. Stanley.*

16th March 1841.

13. Has any Person not officially connected with the Poor Law Department had Access to the Book ?

No Person has Access to this Book but the Persons officially connected with the Poor Law Commission.

14. Has any Person had Access to it ?

To the best of my Belief no Person has had Access to it ; I think it is impossible almost that any Person could have had Access to it, and I therefore believe that no Person has had Access to it.

15. Has the Lord Lieutenant for Ireland inspected that Book since the 1st of March,—this present March ?

The Lord Lieutenant has been in our Office, but I cannot say whether he has inspected this Book ; with my Knowledge he has not inspected this Book.

16. Could his Excellency have inspected the Book without your Knowledge in the Office ?

Certainly.

17. Under whose Care is that Book ?

It is kept by one of the Register Clerks.

18. Who was in the Office at the Time his Excellency called there ?

He was in the Room with Mr. Nicholls a short Time ago ; I cannot recollect particularly the Day, but he was in the Room with Mr. Nicholls. I was not in the Room during that Period.

19. Did you ever know the Lord Lieutenant for Ireland call at the Poor Law Office ?

He has frequently called.

20. And inspected the Books ?

I do not know what he has done ; I have never had the Honour of being in the Room with his Excellency when he was there. He calls frequently ; he rides down there to see Mr. Nicholls, and remains there some Time, but I have never been in the Room with him during any of his Visits.

21. Be good enough to look at this Return sent to the House of Lords in the Month of May 1840 ?

I have a Copy of it.

22. Is that your Handwriting ?

The Return dated the 9th of May 1840 was made by me, and that is my Handwriting, "William Stanley."

23. Is that Return a true Return of Copies of all "Correspondence between the Poor Law Commissioners and all Persons respecting the Appointment of Mr. John Butler to the Office of Returning Officer of the Clonmel Union?"

I believed it to be a true Return at the Time I made it.

24. Please to turn to the Letter in that Return dated "Clonmel, 16th February 1839," from Messrs. Hawley and Hancock, Assistant Commissioners ; the first Letter in that Return ?

I have it.

25. That Letter purports to be a Recommendation of John Butler of Clonmel as a fit and proper Person to fill the Office of Returning Officer, signed "Hawley," and "Hancock," "Assistant Commissioners." Was that Letter received at the Office on the 17th February ?

The 17th February, I have had Occasion to ascertain, in consequence of Inquiries relative to this Matter, was Sunday ; this Letter of the 16th February was put upon our Books as received upon the 18th, the Monday.

26. It came by Post ?

It came by Post with other Papers.

27. Was Mr. Nicholls in Dublin on the 14th of February 1839 ?

He was not.

28. Who

28. Who was at the Board on the 14th February, and in the Week following?

Mr. Erle, at that Time an Assistant Commissioner.

Mr. W. Stanley.

16th March 1841.

29. Turn to No. 3. in the same Return?

Before I proceed further, I beg to be understood with reference to the first Question asked. I was asked, I think, whether Mr. Nicholls was in Ireland in February 1840 and in February 1839; I stated that I thought he was in Ireland, to the best of my Belief, in February 1840, but that I thought he was not in February 1839. He was not in the Office during the Period now referred to, in February 1839.

30. Mr. Erle was?

Mr. Erle was.

31. Turn to No. 3. in the same Return, a Letter from Mr. Fennell, High Constable of the Barony of Iffa and Offa East, in which he offers his Services in the Capacity of Returning Officer for that District. Have you got the Letter?

I have.

32. That Letter is dated the 15th of February 1839, from Clonmel, is it not?

Yes.

33. And Messrs. Hawley and Hancock's Letter that conveyed their Recommendation of Mr. Butler did not arrive in Dublin till the 18th?

Not until the 18th. It might have arrived in Dublin before the 18th, but it was not received as an official Paper at the Poor Law Commission Office until Monday the 18th.

34. When was Mr. Fennell's Letter, dated "Clonmel, 15th February," received in Dublin?

On Saturday the 16th.

35. Two Days before the Letter in favour of Mr. Butler was received?

Yes; Two Days before that Letter in favour of Mr. Butler was received.

36. Turn to No. 4., Copy of a Letter from the Assistant Secretary to George Fennell, Esquire, dated "Poor Law Commission Office, Dublin, 18th February 1839?"

I have got it.

37. This Letter states, "Sir, In reference to your Letter of the 15th instant, I am directed to inform you, that your Application to be appointed Returning Officer for the Clonmel Union did not arrive at this Office until after the Assistant Commissioners for the Union had recommended the Appointment to be conferred on another Person." Signed, "Wm. Stanley, Assistant Secretary." Was that Letter ever written and sent to Mr. Fennell?

I would have sworn some Days ago that it was; but Circumstances have since occurred which have led me to apprehend that a Portion of this Letter is not an actual Copy of the Letter that was sent.

38. The Letter which is about to be handed to you is as follows: "Poor Law Commission Office, Dublin, 19th February 1839. Sir, In reference to your Letter of the 15th instant, I am directed to inform you, that your Application to be appointed Returning Officer for the Clonmel Union did not arrive at this Office until after an Appointment was made in favour of another Person. I am, Sir, your obedient Servant, W. Stanley, Assistant Secretary. G. Fennell, Esq., High Constable of Iffa and Offa East." Is that your Handwriting?

That is my Handwriting to that Letter.

39. The House do not perceive that Letter in this Return; can you account for that?

I account for it in this Way, that the Draft of the Letter retained in the Office being the only Copy that we have of Correspondence, does not contain the last Words that are in that Letter.

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40. How



*Mr. W. Stanley.*

16th March 1841.

40. How came that Alteration to be made, not only in the respect you have mentioned, but in the Date?

The Date is upon our Draft the 18th of February; the Date is upon our Register the 18th of February; the Date of the Minute of the Register made at that Period is the 18th of February. We know of no other Date than the 18th of February. My Presumption is this, that the Clerk who copied that Letter after the Draft was prepared made the Copy for Signature upon the 19th, and omitted through Negligence to alter the Draft also to the 19th. I can only account for it in that Way.

41. How came he to state that "the Assistant Commissioners for the Union had recommended the Appointment to be conferred on another Person," when the original Letter states a totally different Fact?

I can positively declare that I altered the Draft when the Letter was brought to me for Signature. Letters are brought to me at the End of the Day, all the Correspondence of the Day is brought to me for Signature a short Time before the Post Hour, according to the Extent of Business performed on the Day, and I go through the Letters; if I see any thing objectionable on them I either lay the Letter aside, and do not sign it, or I direct an Alteration to be made, if the objectionable Matter can be removed by an Alteration not too extensive to be made in a Letter; and if the Letter is on a very important Subject I would require a new Letter to be written. In this Case I positively declare, that I wrote upon the Draft an Amendment, and I might have signed the Letter before I detected it. But I should first state, that I did not dictate this Draft; the Draft is not in my Handwriting; it is not written in pursuance of any Instruction that I gave; at least to my Knowledge; I have no Recollection of it. I am not answerable for it in any way but as to the Accuracy of the Expressions generally used. When I had signed that Letter I saw what appeared to me to be an Inaccuracy upon it. I could not have let a Letter go out in which it was stated that the Appointment of a Returning Officer was made, when I knew that the Union had not been declared, and when I knew that no Appointment takes place until after the Union is declared, and that the Appointment is made in the Order for the Election of Guardians. I therefore positively declare that I altered the Draft so as to intimate to Mr. Fennell that the Appointment had been conferred, because the Appointment is conferred by the Assistant Commissioner. The Appointment is made by the Poor Law Commissioners. The Assistant Commissioner in every Instance selects the Returning Officer; that is, chooses the Person who is to perform the Duty of Returning Officer, and confers upon him the Appointment in that Way. When the Time comes for the Election, perhaps a Month after the Appointment is conferred, the Appointment is then made by the Commissioners Order for the Election.

42. What Draft do you say you altered?

I altered the original Draft; the only Draft of that Letter.

43. Have you got that Letter as altered by you, or a Minute of it?

We have; the Draft exists, and I have a Fac-simile of it here.

44. Have you not brought the Draft itself here?

I have.

[The Witness produces it.]

45. In whose Handwriting is it?

The Draft is in the handwriting of Mr. Wadsworth, then acting as Clerk of Correspondence.

46. They are Corrections of your own?

The Corrections are in my Handwriting.

47. When were those Corrections made?

The whole of the Correction there was not made at the Time that Letter was submitted to me for Signature. I made only so much of Correction then as intimated that the Appointment had been conferred.

48. If you made those Corrections at the Period you mention, or even a short Time subsequently, why was not that corrected Letter returned to this House?

The corrected Draft is the Copy in the Return to this House.

49. Why

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49. Why were not the Corrections made at the Time ; because there appear to have been subsequent Corrections ?

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From the Extent of the Corrections in one Handwriting,—for there will be perceived a Difference in the Handwriting,—from the Extent of that, the Reason I assign is, that those Words were just sufficient to fill the Space occupied by the Words I objected to, and that rendered it unnecessary to write a new Letter.

50. If those Corrections had been made previously to the Clerk copying the Letter which was sent to Mr. Fennell, it is morally impossible for the Clerk to have made out the Words erased ; how do you account for the Circumstance that the Clerk should have been able to read that which it is impossible to read now ?

If the copying Clerk employed by Mr. Wadsworth had put the Correction which I made into the Letter when he was directed to do it he would have had the Correction as it was written by me, for the Correction made in one Handwriting was sufficient to fill the Space, and it was perfect in itself ; the Erasure is subsequent ; it was made subsequently to the Period at which the Letter bears Date.

51. Is the Book which lies before you a Record of the Proceedings of the Commissioners, kept in obedience to the Provision in the Third Section of the Poor Law Amendment Act ?

Yes, it is.

52. Is all that entered in that Book ?

I shall read the Minute that is entered on this Book ; it is under the Heading “ Breviate of Answer to Letter ; ” informing him, that his Application did not arrive at this Office until after another Person had been appointed. That is what the Clerk wrote.

53. Breviate of what ?

Breviate of the Letter to Mr. Fennell.

54. Then in point of fact the Letter which appears No. 4. in this Return was not the Letter sent to Mr. Fennell ?

It appears so by that Letter to which my Name is affixed, now before the House.

55. Can you explain this Fact : In the Letter No. 4., which purports to have been sent, but was not sent, to Mr. Fennell, and the same Observation is also contained in the real Letter sent to Mr. Fennell, both Letters state, “ Your Application to be appointed Returning Officer for the Clonmel Union did not arrive at this Office until after the Assistant Commissioners for the Union had recommended the Appointment to be conferred on another Person,” or “ until after the Appointment was made in favour of another Person ? ” Mr. Fennell wrote from Clonmel on the 15th ; you stated that his Letter arrived in Dublin on the 16th ; you have just now stated that the Recommendations sent by Mr. Hawley and Mr. Hancock, dated Clonmel 16th, did not arrive in Dublin at the Office until the 18th ; consequently how could you or the Commissioners state to Mr. Fennell that his Application to be appointed Returning Officer for the Clonmel Union “ did not arrive at this Office until after the Appointment was made in favour of another Person,” or “ until after the Assistant Commissioners for the Union had recommended the Appointment to be conferred on another Person ? ”

I think this, that the Clerk in addressing this Letter, from whatever Instructions he received, did not at all, in stating that the Appointment had been conferred or was made in favour of another Person, refer to that Letter of Mr. Hawley and Mr. Hancock, but made the Statement from a previous Knowledge of the Fact existing in the Office.

56. The Clerk did that of his own Accord ?

The Corresponding Clerk who drafted this Letter made the Statement relative to the Appointment having been made in favour of another Person from a Knowledge of the Fact, or of the Selection of Mr. Butler, then existing in the Office.

57. But your Name is signed to the Letter, therefore you must have been cognisant of the Fact ?

I would humbly beg to explain that. When Letters are laid before me for  
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Signature I never read them through; I am obliged to rely upon the Correspondent for the general Accuracy of them.

58. Then you do not read the Letters you sign?  
Seldom or never.

59. Who does?  
The Corresponding Clerk.

60. Who is the Corresponding Clerk?  
The Corresponding Clerk who drafted this Letter is Mr. Wadsworth.

61. Were those Letters laid before Mr. Erle, the Assistant Commissioner?  
Never.

62. Is, then, the whole Business left to the Clerk?  
The Instruction is given by the Commissioner or Assistant Commissioner, either in Writing or verbally.

63. Then it is not the Fact, as stated in this Letter, that the Application of Mr. Fennell "did not arrive until after the Assistant Commissioners for the Union had recommended" another Person?

In one View it is not a Fact; in another View it is a Fact. With reference to the Letter of Mr. Hawley and Mr. Hancock it is not a Fact; with reference to Knowledge existing in the Office previous to the Arrival of Mr. Hawley and Mr. Hancock's Report it is a Fact.

64. Do you believe that the Commissioners directed the Clerk to state that being a Fact, in one Way or the other?  
I believe that the Clerk was instructed to write this Letter.

65. By whom?  
It must have been either by Mr. Erle or his Colleague at the Time, Mr. Phelan. Mr. Phelan, however, was not acting generally in the Department. The Clerk directed that Correspondence in the Absence of Mr. Nicholls, but he was continually in the Office.

66. Was Mr. Phelan in the Office when the Clerk copied, or drafted, or wrote that Letter to Mr. Fennell?

Mr. Phelan was there almost daily in attendance at the Time, and I presume he was in the Office then; he was the Colleague of Mr. Erle at the Time, and in daily Attendance with him at the Office.

67. Did Mr. Phelan direct that Alteration to be made with reference to the Appointment having been conferred on another Person?

No; that was solely my Act. I objected to the Letter as drafted, and I corrected it, to give what appeared to me to be a more accurate Description of the State of the Case. I knew that the Appointment had been conferred, and I knew the Appointment had not been made.

68. How did you know it had been conferred?  
I must have ascertained it from Mr. Phelan.

69. The Appointment was not made by Mr. Phelan?  
No; I say that the Appointment was not made, but the Appointment had been conferred by the Assistant Commissioner before that Letter was written.

70. You have stated that you altered the Draft in consequence of knowing that the Appointment was conferred; how did you know the Appointment was conferred?

I presume,—and I can only presume, for the Time is so distant that the Knowledge of the Fact was acquired from Mr. Phelan,—I presume too that it was acquired in this Way,—my Attention has been directed to the Case, and I have been for several Days endeavouring to recollect how these Things occurred, and the best Account I can give of it is this: Mr. Fennell, in his Letter of the 15th of February, refers to Mr. Phelan; he says, "For Character I would refer to Mr. Phelan." The Probability is that that Letter was shown to Mr. Phelan; I would say almost the Certainty is that that Letter must have been shown to Mr. Phelan, and that on seeing it he said at once "Oh! Mr. Butler is to be the Returning Officer," or something to that Effect. I am only

only speaking now on Presumption; it is endeavouring to account for what we have no Record of.

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71. Will you please to answer where your Oath stops, and where Presumption begins?

In this Case I speak entirely upon Presumption, because we have no Record; we have nothing to show that Mr. Phelan did give this Instruction, or this Information upon which the Instruction is founded. I cannot positively depose on Oath to such a Statement, but it is the only Way in which I can account for my having signed that Letter, in which I directed the Words "conferred the Appointment" to be introduced.

72. Then your Belief is that Mr. Phelan stated that Mr. Butler was appointed on the 16th, although the Recommendation of the Assistant Commissioners did not reach the Commissioners till the 18th?

My Belief is, that when Mr. Fennell's Letter arrived it was shown to Mr. Phelan, and that Mr. Phelan then said that Mr. Butler had been selected for the Office, and that he was to be the Returning Officer.

73. But the Letter recommending him did not arrive till Two Days after? That Letter recommending him is a mere pro formâ Letter that is sent.

74. Why was that Letter, which arrived on the 16th, not answered on the 16th?

I cannot account for that; the Pressure of Business might put off the Answer for Two Days or more.

75. Then the Knowledge of your Corresponding Clerk, obtained with reference to the Appointment of Returning Officer, came from Mr. Phelan, when he wrote that Letter on the 18th?

That is the only Way in which I can account for it. It must have been from Mr. Phelan.

76. Then did Mr. Phelan suggest the Alterations in the Draft? Certainly not; he never did.

77. You have got before you a Record of the Proceedings; will you be so kind as to read the Record of the Proceedings from the 15th of February to the End of this Transaction, in order that the House may see what is entered upon the Record?

As to this particular Case am I to read the Record?

78. Read the whole Record.

This Record includes a great Number of Cases.

79. The Record as to this Transaction of John Butler the Returning Officer. You have given an Account of how it happened; the House wish to see what is the Record upon it?

Beginning from the 15th, I find on the Record on the 16th the Letter of Mr. Fennell, and subsequently to that I find an Entry of the Letter from Mr. Hawley and Mr. Hancock.

80. Read what passed; read what is said upon those Letters?

The first is No. 1067., "Application for the Office of Returning Officer of G. W. Fennell, Collector of the Barony of Iffa and Offa West, Clonmel, soliciting Employment as a Returning Officer in that District, dated 15th of February."

81. Have you entered the Date when it was received?

We have no Entry of the Time at which a Letter is received.

82. Have you ever read the Clause in the Act of Parliament?

This Register does not contain a Column for the Date at which Letters are received.

83. Have you any other Register that does contain the Date?

Not of this Transaction; not of this Period.

84. There is no other Entry?

There is no other Entry in the Books of the Office than the Entries in this Book before me.

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85. Read

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85. Read the Entries in the Book before you ?

I will continue from the Date of the 15th of February, Mr. Fennell's Letter, to read the Minute or Breviate of Answer. I have already read this, and perhaps it would be unnecessary to detain the House by reading it again.

86. Read it ?

"Informing him that his Application did not arrive at this Office until after another Person had been appointed."

87. That is the Entry in the Book ?

Yes ; " 18th of February." The next Entry upon my Register is 1103, " Recommendation of Returning Officer—Clonmel Union. Messrs. Hawley and Hancock, Assistant Commissioners, recommending Mr. John Butler as Returning Officer for the Clonmel Union, and forwarding a Copy of the Tabular Form ; Date of the Letter, 16th of February."

88. When was it received ?

No Entry of when received.

89. You have stated that it was received on the 18th, the 17th being Sunday ?

I have. The Breviate or Minute upon that is, " Order sent to London for Execution for first Election of Guardians, and for the Appointment of Returning Officer, 19th March."

90. You state the Fact of its having been received on the 18th of February ; are you aware of that Fact ?

It is always on the original Papers themselves ; it is in that Way that we at this Time know when the Letter was received ; but now every Letter that comes to the Office is branded with the Date upon which it is received, but that was not the Practice at the Time I refer to. That concludes up to the 18th.

91. Have you any thing more on the Record ?

Nothing more relative to this Appointment, unless I were to proceed to the Period of the other Papers that were in the Return ; the Papers on the 9th of March.

92. Read the whole, from the Beginning to the End of the Transaction ?

The next Paper is 1329, " Name of Returning Officer—Workhouse Site—Clonmel Union. John Bagwell, Marlfield, Clonmel, inquiring the Name of the Returning Officer of the Clonmel Union, and if any Site has been fixed on for a Workhouse." The Date of this Letter is the 9th of March. I find the Space for the Breviate has not been filled up opposite to this Letter, that is, that the Answer returned to Mr. Bagwell's Letter was not minuted down here.

93. How do you account for that ?

It is a clerical Error, which I shall attend to ; it is an Omission of the Clerk. I shall have it corrected.

94. Were any Directions given for that Answer ?

Yes ; a Direction was given on the Paper.

95. You think it was only omitted to be entered ?

Only omitted, because I have the Answer in this Return. The next Paper is 1362, " Appointment of Returning Officer—Clonmel Union. John Bagwell, Marlfield, relative to the Appointment of Mr. Butler as Returning Officer for the Clonmel Union, 12th March ;" that is the Date of the Letter. There is no Minute of the Answer opposite to it, but there are Two Numbers, References to Papers, 1329 and 1407.

96. To what Papers are those References ?

I cannot precisely say ; they are Papers relative to the Case. I have never looked at the Papers.

97. 1329 is the Number of the Letter to which John Bagwell replies. It is so stated in the first Line of John Bagwell's Letter ?

That is the Number of Mr. Bagwell's previous Letter. 1407 is a Letter from the Assistant Commissioner, " explaining the Reason of his not holding a Meeting at Clonmel, and expressing his Determination to attend Meetings on

Nomination

Nomination Days and at the Scrutiny of Votes." "Read 19th March" is the Minute. That is one of the Letters, 1407, referred to opposite to the Entry of the Letter of Mr. Bagwell of Clonmel. I was asked to explain to what Papers those Numbers referred; in obedience to that Direction, I have read this Paper.

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98. Who is the Writer of the Letter No. 1407?  
Mr. Hawley, the Assistant Commissioner.

99. That refers to no Letter that is in the Return?  
I apprehend that the Clerk put this Number there to connect the Union Papers. The Papers of the Union are kept together in this Way.

100. But there is no Record of the Letter of the 18th of March to Mr. Bagwell?  
There is no Entry of the Minute, but we have a Copy of it; we have a Draft.

101. What is the Number of it?  
The Number is not on this Return.

102. You say that on the 11th of March you wrote an Answer to Mr. Bagwell's Letter of the 9th of March; there is no Entry of that Letter. Mr. Bagwell writes again on the 12th and on the 18th; there is a similar Omission of the Letter written to Mr. Bagwell, of which no Entry is made?  
There is.

103. Those apparently are the only Two Cases in which you made no Entry of Answers sent to Letters?  
They are not the only Cases; on going through this Book I see a great Number of Blanks here in this Breviate.

104. From what Book did you, whose Name is affixed to those Letters, make out the Returns?  
The Returns were not made out from any Book; they were made out from the original Papers.

105. Please to look at the Letter No. 6. "Copy of a Letter from the Poor Law Commissioners to John Bagwell, Esquire," dated "Poor Law Commission Office, Dublin, 11th of March 1839"?  
I have got it.

106. That Letter to Mr. Bagwell states, does it not, "Sir, The Poor Law Commissioners desire to state, in reply to your Letter of the 9th instant, that Mr. John Butler has been recommended to them as a competent and proper Person to undertake the Duties of Returning Officer at the Election of Guardians for the Clonmel Union, but that his Appointment has not yet been made." Does that Letter on this Return correspond with the Letter in the Minute Book?  
I have contrasted this Letter with the Minute from which it is written, and, with the Exception of the mere introductory Words, "The Poor Law Commissioners desire to state," because that is never on the Minutes, all the other Words of the Matter that is stated are in the Minute, and they are faithfully given in this Return.

107. Then the real Letter that was written to Mr. Fennell, and received by him, dated Dublin, the 19th of February 1839, states that "the Application to be appointed Returning Officer for the Clonmel Union did not arrive at this Office until after an Appointment was made in favour of another Person." Now the real Letter that Mr. Fennell received, and which was written by you yourself, is of a totally different Nature from the Answer sent to Mr. Bagwell, for in that you state that his Appointment had not yet been made?  
That is the Truth, and that is what I wished to have expressed in the Letter to Mr. Fennell; and for that Purpose I made the Alteration upon the Draft, in order that the Correction might be made in the Letter.

108. But would it not have appeared to the House of Lords, when this Return was ordered, if the real Letter which you sent to Mr. Fennell had been put into the Return, that there would have been a manifest Contradiction between what was stated to Mr. Fennell and what was stated to Mr. Bagwell, if you had put into this Return the real bonâ fide Letter that was sent to Mr. Fennell?  
If that Letter bearing my Signature were in this Return that Contradiction would  
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would appear; but I solemnly declare that I had no Knowledge when this Return was prepared that that Letter was not in accordance with the Draft.

109. Then you swear that there was no Motive whatever for making that Alteration?

I swear that there was no Motive in making this Return, but to give a true Statement of the Case, as our Papers in the Office enabled us to give it.

110. And it was not done for the Purpose of proving to the House of Lords that there was no Contradiction in your Correspondence between Mr. Bagwell and Mr. Fennell?

I swear that.

111. This Paper you have put in is the original Letter, is it not, from Mr. Fennell, of the 15th of February?

I have given in the original Letter.

112. On the Back of that is written the Draft of the proposed Answer, which Draft you state is corrected by yourself?

Yes.

113. And this Draft was corrected by yourself before the Copy was made which was sent to Mr. Fennell?

It was corrected as I have explained, when the Letter to Mr. Fennell was placed before me for Signature.

114. This is the Draft which you say you yourself corrected of the Letter proposed to be sent from the Poor Law Commission Office to Mr. Fennell, in reply to his Letter which is on the other Side?

I did not state that the whole of the Correction upon that Letter was made at the Time that the Letter was going to Mr. Fennell; I stated that I had made a Correction of such an Extent as could be introduced into the Letter without requiring another to be written, and that the Words which I wrote were for the Purpose of giving a different Expression from those used by the Clerk, intimating that that Appointment had been made, I wishing to have it intimated merely that the Appointment had been conferred.

115. Then will you state what were the Words which you wrote in upon that Occasion upon that Draft?

I wrote the Words upon that Draft, "had been conferred on;" those Words were to be inserted in lieu of "was made in favour of."

116. The Draft in this Letter stands in this Manner, "did not arrive at this Office until after;" the Erasure there begins; and then it is written in "the Assistant Commissioners for the Union had recommended;" were those Words inserted by you at that Time?

They were not.

117. When were they inserted?

I have had a Doubt upon my Mind as to when those Words now quoted were inserted; they were probably inserted at the Time the Papers were brought forward in Mr. Bagwell's Case; possibly they might not have been inserted until the Return was ordered, but I have no Recollection, on my Oath, of having inserted them at the Time the Return was ordered; more than of having inserted them at the Time that Mr. Bagwell's Papers were brought forward.

118. Will you read the whole Letter as altered by you, and as intended to go?

"Sir, In reference to your Letter of the 15th instant, I am directed to inform you, that your Application to be appointed Returning Officer for the Clonmel Union did not arrive at this Office until after the Appointment had been conferred on another Person." That is the 18th of February.

119. In this Case the Words are, "to be conferred," not "had been conferred;" and the whole Correction is written in the same Hand; you stated that that was the only Alteration that had been made?

"Had been conferred" was the Alteration originally made.

120. Made

120. Made upon this Paper?

Made upon that Paper, and you will see a Knife Erasure before the Words "conferred on," on which Erasure the Words "to be" are written.

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121. You state that this Alteration was made on the 18th of February, when the Draft was submitted to you, and that in the Minutes it is stated that a totally different Letter was sent on the same Day?

The Minute states the Letter to have been sent on the 18th of February.

122. How can you account for the Circumstance, that on the 19th of February there was a totally different Letter sent from your Office from either the Letter corrected by you or the original Draft?

I can only account for it in one Way, that the Letter was copied for Signature on the 19th of February, and that the Clerk in copying it omitted to alter the Draft at that Time. I had no Knowledge whatever of the Existence of that Date, the 19th of February, until the Matter was brought before this House.

123. You have stated that the Alterations you made were in the Words "had been conferred;" that those Words were subsequently scratched out with a Knife, and the Words "to be" substituted; was that done by you?

It was.

124. Was that done at the same Time?

No; long afterwards.

125. What was the Object of your making that Change at a subsequent Time in the Letter which you had directed to be written sometime previously?

The Alterations were partly in Pencil and partly in Ink; at first the Words "had been conferred on" in Ink; and it will be seen on reference to the Draft that the Words remaining "conferred on" are not precisely in the Style of Writing, or written with the same Pen, as the previous Words. The previous Words now in Ink were first in Pencil, and the Words were merely written in Ink when the Draft was sent over here for Inspection at the Home Office.

126. The first Corrections which you made "had been conferred" were made for the Purpose of being written in the Letter at that particular Moment. You state that, subsequently to that, the Letter having been written and sent, you authorized the Erasure and Insertion of other Words. The Question put to you is, for what Purpose did you subsequently make the Change, you knowing that the Letter had been written as you at first directed?

My first Impression was, on looking at these Papers, when the Matter was brought before this House, that the whole Alteration must have been made at one Time. On endeavouring to bring to my Recollection the Occurrences, as well as I could after a Lapse of more than Two Years, it appeared to me impossible that I could have made at one Time the Alteration in Pencil and the Alteration in Writing. It is possible that I might have done so, and told the Clerk that it would be enough to put down the Words that were in Ink; but my stronger Impression is, that the Words in Pencil were subsequently written, and they may have been written, as I stated before, when the Correspondence with Mr. Bagwell took place. I am led to that Inference from the Circumstance of our using nearly similar Words in replying to Mr. Bagwell.

127. Did you at the Time you made this last Alteration firmly believe that that was the Manner in which the Letter was directed by you to be sent at the Time?

At the Time at which I put the whole of that Matter in Ink, that is, when the Paper was coming over to the Home Office, my Impression was, that the whole of the Alteration was upon the Letter sent to Mr. Fennell. It was subsequently that the Doubts arose in my Mind with respect to it.

128. Then in the Letter, as you corrected it, and desired it to be sent to Mr. Fennell, you stated that which you now consider not to be a correct Statement, for you told him that the Appointment had been conferred upon another Person, whereas you afterwards had seen fit to correct that Expression by

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saying that the Assistant Commissioners for the Union had recommended the Appointment to be conferred on another Person?

That is merely explanatory of it, for we always consider the Assistant Commissioners as virtually conferring, but we consider the Commissioners as making the Appointments.

129. What was then the Object of inserting the Words, and when were they inserted?

I thought, as I said before, that the Words were inserted originally when the Letter to Mr. Fennell was going out; but subsequent Consideration, in endeavouring to bring the Matter to my Recollection, led me to believe that the Alteration in Ink was written at a different Time; that the Words "had been conferred on" were written at a different Time from the Words which relate to the Assistant Commissioners Recommendation.

130. In your Letter to Mr. Fennell you stated that the Appointment had been made, and in your Letter to Mr. Bagwell you stated that the Appointment had not been made, and now you state that on the Occasion of your writing to Mr. Fennell the Words "that the Assistant Commissioners had recommended an Appointment to be made" were inserted in the Letter?

What I state is this, that the Alteration "had been conferred on" was made at the Time the Letter was written, and that, as the Matter was brought again under Consideration when Mr. Bagwell wrote that, then the further Correction was made as a Matter for future Guidance, and to keep as a Record.

131. Was it a true Answer to Mr. Fennell when you wrote to him stating that the Appointment had been conferred on another?

I would believe that to be a true Answer.

132. Was it a true Answer which you wrote to Mr. Bagwell a Month after, stating that the Appointment had not been made?

Yes; for I make a Distinction between the making of the Appointment and the conferring of it, the One being the Act of the Assistant Commissioners, and the other the Act of the Chief Commissioners.

133. Now, as to the Words, "the Assistant Commissioners having recommended;" you state to Mr. Fennell, and that remains unaltered, that his Application did not arrive until after the Recommendation had been made to the Office?

Yes.

134. Was that true?

The Letter I sent to Mr. Fennell is not a correct Letter; is not in fact a true Letter.

135. But the Question refers to the Letter as corrected by yourself?

The Letter, as corrected by myself, I consider a true Letter. It is not exactly as I would have drafted the Letter, but I consider it sufficient for the Purpose to indicate that the Office had been conferred. I was only anxious that the Letter should indicate that the Appointment had been made, as it did.

136. The Question does not refer to the Appointment being made, but to this Part of the Letter, where you inform him that his Application did not arrive until after the Assistant Commissioners had recommended the Appointment to be conferred upon another. You stated that to him; was that true?

According to these Dates it is certainly not strictly correct; but that would go to show, I humbly submit, that I had no Motive in making up the Return; those Discrepancies are only shown by the Return.

137. But in truth the Letter of Mr. Fennell was received at the Poor Law Commission Office on the 16th February; no Answer is sent to it till the 18th, on which Day the Recommendation of the Assistant Poor Law Commissioners is received, viz. Two Days after Mr. Fennell's Letter; and yet you sanction the writing of a Letter to Mr. Fennell, stating that his Letter did not come until after the Recommendation of the Assistant Commissioners. Is not that a correct Statement of the Case as it stands upon the Return you have given in?

Yes; that is a correct Statement of the Case.

138. Then was your Letter to Mr. Fennell true?

It was not true with respect to the pro formâ Letter of Mr. Hawley and Mr. Hancock, but it was true with respect to their Act of conferring the Appointment?

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139. Then do you proceed in the Poor Law Commission in Ireland upon mere verbal Reports from one to another, of which you make no Record whatever?

In a Matter of this Kind we would write a Letter upon a mere verbal Understanding.

140. Then why do you record at all, when the Records tell against yourselves?

This Return tells against us; the Dates tell against us.

141. What do you mean by "a verbal Understanding" between the Commissioners in Dublin and the Assistant Commissioners in Clonmel?

A verbal Understanding between the Assistant Commissioner in Dublin, then acting in Mr. Nicholls's Absence, and the Assistant Commissioners at Clonmel, I would explain to be a verbal Communication from Mr. Phelan, who had recommended Mr. Butler to be appointed, and his apprising the acting Assistant Commissioner that his Recommendation had been successful; I presume that that must have been the Case. I presume that that Statement was made upon a mere Knowledge of the Fact in the Office, and was not made at all with reference to the official pro formâ Report of Mr. Hawley and Mr. Hancock.

142. Was Mr. Phelan the Assistant Commissioner for the Union?

No; he was Assistant Commissioner attending in Dublin at the Time.

143. But you state that the Recommendation which was attended to was always the Recommendation of the Assistant Commissioner of the Union?

I do not want to make it appear here that the Recommendation alluded to in this Letter was the Recommendation of Mr. Phelan; what I mean to say is, that our Knowledge of the Assistant Commissioners having conferred the Office was ascertained through Mr. Phelan, who had recommended Mr. Butler to them.

144. Do you mean to state that the Assistant Commissioner in Dublin recommends a Returning Officer to the Assistant Commissioners of the Union, and calls upon them for a Recommendation to cover that Appointment; is that your Meaning?

In that Case it is the Fact.

145. Then it is in fact Mr. Phelan's Appointment?

Mr. Phelan did recommend, by a Letter of the 9th February, Mr. Butler for the Office of Returning Officer. The Assistant Commissioners in Clonmel consulted some Persons there as to Mr. Butler's Fitness, and by the Minute on Mr. Phelan's Recommendation, which is dated the 12th February, Three Days before the Date of Mr. Fennell's Letter, I observe that the Assistant Commissioners had made their Inquiries, and appeared satisfied with the Man.

146. Where does that Letter of the 12th February of Mr. Phelan's appear?

It will appear upon the Return presented to your Lordships, I believe, Yesterday.

147. In that Return the Letter appears to be on the 9th February?

It was the 9th of February that Mr. Phelan wrote the Letter.

148. Have you any Knowledge of the Letter?

I have not a Knowledge of the actual Letter—of the Words of it; but I have a Knowledge of Mr. Phelan having recommended Mr. Butler.

149. Was Mr. Phelan the then acting Commissioner in Dublin?

No, he never acted in that Capacity, but he was an Assistant Commissioner at the Time; he was in daily Attendance at the Poor Law Commission Office. He was a Colleague of Mr. Erle, who acted as Representative of the resident Commissioner.

150. Were the Alterations in the Letter to Mr. Fennell made previously to the  
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the Month of May, when the Returns were ordered by this House, or were they made subsequently?

I stated that the Alteration was made upon the Paper upon the Day upon which it was placed before me for Signature; either then or subsequently; but certainly before the Return was ordered by this House. Then the whole Thing was complete, and nothing has been done since that, except putting the Pencil Marks into Ink.

151. Did Mr. Phelan recommend you to make those Alterations in the Letter to Mr. Fennell, on the 18th or 19th of February?

I do not recollect Mr. Phelan having spoken to me with reference at all to the Alterations, or indeed to the Letter; and I believe that the Alteration was made entirely from myself, without reference to any one Person whatsoever, or without Instructions from any Person whatsoever.

152. When those Returns were ordered by this House was Mr. Phelan in Dublin, or did you see him before these Returns were sent from your Office?

I cannot answer the Question as to whether he was in Dublin, but I answer distinctly, and on my Oath solemnly, that Mr. Phelan, to my Belief, never saw the Return before it left the Office.

153. Your present Impression is, that you made the second Alteration in the Draft after the Letter was sent to Mr. Fennell?

That is my present Impression.

154. Is it not your Duty to keep a true Copy of the Letters that are sent? It is the Duty of the Office.

155. Is it not your Duty to keep others to the Performance of theirs, and not yourself to alter the Copy of a Letter which you have sent, thus preserving an untrue Record of your Proceedings?

Generally speaking, it is my Duty to see that the Business of the Office is properly conducted; and in making the second Alteration, supposing that I did make the Alteration a second Time, as I now presume that I did, it was not intended to be an erroneous Record of the Letter sent; it was intended to be a more explanatory Statement of the Matter. We do not keep Copies of Letters at all; there are a great many Letters written at our Office of which there are no Copies existing. There are many Letters sent out of which we have only a few Words of Instruction given by the Commissioners for the Answer; for instance, "Inform Party that his Letter will be taken into Consideration." The Clerk writes opposite to that the Words, "I am directed to state," or "The Poor Law Commissioners desire to state." That is the only Copy, if it can be called a Copy, that is retained of the Answer, and then it would run, "The Poor Law Commissioners desire to state that your Letter will be taken into Consideration."

156. Were you at the Office when the First Order of the House of Lords, of the Year 1840, for Copies of the "Correspondence between the Poor Law Commissioners and all Persons respecting the Appointment of Mr. John Butler to the Office of Returning Officer of the Clonmel Union" was sent to the Office?

I was at the Office.

157. How did you understand that Order? Did you understand that it left to your Option to send any Part of the Correspondence you pleased?

It did leave it to my Option to send any Part I pleased; but there are some Letters concerning this that are not within the Terms of this Order; for example, the Letters from and to Mr. Fennell I do not consider to be within the Terms of the Order, but as they related generally to the Appointment of the Returning Officer, though not to the Appointment of Mr. Butler, they were included in the Return.

158. The Order which you lately received was for "Copies of all Correspondence between the Poor Law Commissioners of Ireland and Denis Phelan, Esquire, Assistant Commissioner, respecting the Appointment of John Butler to the Situation of Returning Officer of the Clonmel Union." The previous Order was for "Correspondence between the Poor Law Commissioners and all Persons respecting the Appointment of Mr. John Butler." The first Order was

was as full as the last, and yet you sent in return to the first a Portion only of the Correspondence you possessed?

We did not possess the Letter from Mr. Phelan. That was not in the Office when this Return was made.

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159. The first Return was ordered to be printed by this House on the 11th of May 1840; the Letter of Mr. Denis Phelan is dated the 23d of May 1839. From that Letter, in the first Return, you give an Extract without any Date at all; in the Return sent in obedience to the Second Order of the House you give the whole of that Letter?

Yes, the whole of it is given in the last Return. I will explain the Reason why I gave an Extract from the Letter in the Return presented to this House upon the 11th of May 1840, and not the whole of the Letter. I found upon the original Letter, in the Handwriting of the Resident Commissioner, the Words, "Extract from Report of Mr. Phelan," standing exactly at the Place where the Extract commences in this Return. At that Period, May 1840, the Resident Commissioner was in London; if he had been in Ireland, I would have gone to him with all the Papers to be included in the Return, and have taken his Instructions upon them. He not having been present, I prepared the Return on my own Responsibility, and I gave only an Extract, because I found that he had on some previous Occasion marked the Paper for an Extract.

160. What Extract are you now alluding to?

I mean the Extract in the Return of the 9th of May 1840, presented on the 11th of May 1840.

161. Turn to the Return of February 1840. How do you account for it that the Extract of the same Report returned to this House in February 1840 differs from the Extract made in May 1840?

In making one Return I did not refer to the other; in fact I was not aware of the Distinction until my Attention had been called to it in this House.

162. How did it happen that you left out those particular Expressions, "Mr. Butler lately retired from Business, and resided in Clonmel as a private Gentleman"?

I have been endeavouring to call to my Recollection how it was that that was omitted, as it appears to be in favour of Mr. Butler.

163. Will you swear that nobody asked you to leave out those Words?

I do firmly swear it.

164. Did you ever hear that Mr. Butler had failed in Business, and had not paid his Creditors, and came under a Composition?

Well, that is the Reason why I left out those Words.

165. Did you ever hear that he locked his House up, and went away with the Key of it, and would not return it to the Landlord unless he would give him a Receipt for the Two Years Rent he owed, which Rent he never paid?

No, I never did.

166. Did you ever inquire respecting any Circumstances of that Nature of Mr. Phelan?

Never; Mr. Phelan was asked generally as to Mr. Butler's Character when great Opposition to him arose in Clonmel, and he gave then that Report, in which he describes his Character, and in which he describes him as a Gentleman retired from Business. A fuller Extract from that is given in the First Return, at which Time I probably had not the same Impression upon my Mind that I had when the Second Return was made; when the Second Return was made I did believe that Mr. Butler was not correctly described there, and I gave what I considered to be a correct Description of the Man.

167. You left out the incorrect Statement of Mr. Phelan?

I did.

168. Then that Extract of the Report is not a true Extract?

It is an Extract; I intended it as a Copy.

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169. It

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169. It is not a true Copy of the Report of Mr. Phelan?  
It is not.

170. This Report, made by Mr. Phelan to the Poor Law Commissioners, is dated the 23d of May 1839; why is it that in the first Return, in the Month of May 1840, you place it after Mr. Hawley and Mr. Hancock's Letter, dated 16th of February?

Simply for this Reason: Mr. Hancock's Letter of the 16th of February alludes to the Appointment of the Man, and the other gives his Character.

171. Did you place it in that Spot in the Return for the Purpose of making it appear to the House of Lords as if this Recommendation of Mr. Phelan's had preceded the Appointment of Mr. Butler?

I have no Recollection of any such thing.

172. Does it not appear upon the Return as if it was previous to the Appointment of Mr. Butler?

I do not think so; I would humbly beg to read an Extract from the Return of the 9th of May 1840, the Second Paragraph:—"Mr. Butler having applied to me for an Introduction to the Assistant Commissioners with the view of obtaining the Situation of Returning Officer, I acceded to his Request, feeling satisfied that his general Character, business-like Habits," and so on. It refers to the past Transaction; it does not say "I have acceded to his Request," as it would be if we intended to represent this as a Letter written before the Appointment was made. In fact at the Time this Return was made, it would have been desirable to have shown some public Grounds for the Appointment rather than the mere private Recommendation of Mr. Phelan. There could have been no Desire at this Time to show that the Appointment was made solely on Mr. Phelan's Recommendation.

173. Did you know, when you inserted it in this Return, that that was the Date, the 23d of May?

Yes; I must have known, because I must have had the original Letter before me when I was doing it. I did not place the Documents in this Return at all according to Date. I put Mr. Hawley and Mr. Hancock's Letter first, because it related to this Appointment, and that is dated the 16th of February, and I subsequently put Mr. Fennell's Application of the 15th. I rather put them according to the Subjects: there is first the Recommendation of the Man, there is then the Character of the Man, and then I went on with other Correspondence.

174. In reply to Mr. Bagwell's Letter, stating, "I am given to understand that Mr. Jno. Butler is a most unfit Person for the Office of Returning Officer in this Union, for Reasons which it is unnecessary to state; but if the Commissioners inquire, I am certain they will agree with me and the other Land Owners in the Union." In reply to that Letter, dated the 12th of March, the Commissioners say, "They now desire to state that they have received strong Recommendations in favour of the Appointment, founded on Mr. Butler's personal Qualifications;" and they also state, that having, in consequence of that Letter of Mr. Bagwell, "made further Inquiries as to the Fitness of Mr. John Butler for discharging the Duties——" What further Inquiries had they made?

They referred, as appears by the Return presented to this House Yesterday, to the Assistant Commissioner Mr. Hawley.

175. What says Mr. Hawley?

I have not got the Return, or I should read his Reply.

176. Then the Letter of Mr. Hawley is not in this Return?

The Reply of Mr. Hawley is not in this Return; but this Letter of the Poor Law Commissioners, 18th March 1839, was founded upon a Report from Mr. Hawley, and that Report, or "Observations," I think they are called, will be found in the Return presented to this House Yesterday.

177. Is it this Letter? "Mr. Butler is the Nephew of the Roman Catholic Archbishop, Dr. Slattery, and has been strongly recommended to us. He is a highly respectable Person, and his unfitness for the Office complained of by Mr. Bagwell can only have reference to his Connexion with the Prelate above mentioned."

That is the Letter upon which this Answer was written.

178. That

178. That is the Answer to the further Inquiries which you called upon him to make?

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It is.

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179. It speaks here of "strong Recommendations," in the Plural; is Mr. Hawley to be considered as more than One Person?

The Commissioners here place themselves jointly, as it were, with their Assistant Commissioner. He received the Recommendations, of course, for them, that is, to support the Appointment which he advised his Principals to make, and in speaking of strong Recommendations received by the Commissioners, they necessarily only meant the Recommendations received through their Assistant Commissioner, because the Assistant Commissioner makes the Appointment; and I do not know a Case, I cannot at this Moment recollect a Case, except this One, in which the Assistant Commissioner has referred to any particular Parties in that Way as Persons recommending. There may be some Cases, but I cannot immediately call them to Recollection. The Assistant Commissioner, in sending the Tabular Return upon which the Order for establishing the Union is founded, generally reports that he recommends such a Person to act as Returning Officer for the first Election, that he has received several Recommendations from respectable Persons, and that he considers him to be a fit Person. The Commissioners take that upon his Authority, and hold him responsible for the Manner of making the Appointment.

180. In the Return the Commissioners state, in reply to Mr. Bagwell, that they "always desire to obtain the Services of a competent Person who has not publicly taken any decided political Part; but whether such Person is proposed or not, they endeavour to select the Returning Officer without reference to his political Connexions, looking only to general Competency and personal Respectability. These Qualifications they are assured Mr. Butler possesses." Did they make any Inquiries respecting Mr. Butler's political Connexions?

None, except through their Assistant Commissioner, that I am aware of. I should say none.

181. The Letter of Mr. Hawley does not mention a Word about Mr. Butler's political Party or his political Connexions; therefore, how came those Words to be introduced into the Report?

He says that it is his Connexion with the particular Individual mentioned there that has led to the Opposition to his Appointment; and the Reference here to political Connexions must have referred to that particular Statement. Mr. Hawley distinctly refers to the Connexions of Mr. Butler, which he apprehends created the Opposition to Mr. Butler's Appointment.

182. At the Time that Letter was written, stating his Connexion with the Roman Catholic Archbishop, was that the only Objection to him? Were you aware that Mr. Butler was a Bankrupt?

I was not; and I would answer for the Commissioners, that they were not aware of it. I am satisfied of this, that if the Commissioners had been aware that Mr. Butler had been a Bankrupt, he would not have been appointed Returning Officer.

183. Whom do you mean by "the Commissioners"?

I mean the Poor Law Commissioners.

184. Do you mean those sitting in Dublin or those sitting in London?

I mean the Commissioners sitting in Dublin.

185. Do you mean those at the Head of the Commission, or the Assistant Commissioner of the Union?

I mean the Poor Law Commissioner resident in Ireland at the Head of the Commission there; and when I speak of his Acts I speak of the Acts of the Commissioners generally: it is our Form of Expression.

186. Who appoints those Returning Officers?

The Appointment is made by a sealed Order, which is signed and sealed in London.

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187. It is the Commissioners at large who are responsible for the Appointment?

It is the Poor Law Commissioners, the Head Commissioners, who are responsible for that Appointment.

188. Then those are the Commissioners who are making the Inquiry?

They are the Commissioners who make the Inquiry, but they make it through their Assistant Commissioners.

189. Will you read the Correspondence upon that Subject from the Record? If I were favoured with the Date of Mr. Hawley's Report I could read it.

190. The 23d of March and the 16th of May?

I do not find an Entry here of those Observations of Mr. Hawley, and I could explain, probably, the Cause of their not being entered upon this Book; I only speak from what is the Practice of the Officer in similar Cases, and what, I make no Doubt, was followed in that Case. The Letter of Mr. Bagwell was sent to the Assistant Commissioner, after its Arrival on the 12th March, for him to make Inquiries, and he made his Report upon the Letter itself; it is generally upon the same Paper. There would, therefore, have been no new Number given to the Paper; it would have retained the Number 1362, given to it originally as Mr. Bagwell's Communication; and whenever we require the Paper to refer to we would by the original Number get the original Report made upon that Paper, which would have every thing relative to it upon it; and therefore it is not the Practice, when the Assistant Commissioner writes a Report upon a Paper previously numbered and entered upon the Register Book, to give a new Number to his Report, and enter it anew.

191. But there is some Entry under the Number 1362. Inform the House what is entered?

I have already stated that opposite to 1362 the Space for the Breviate, or Minute has a Blank, containing only References to the former Numbers made by the Clerk.

192. Read those Two Numbers?

One of them is the Number 1329; a previous Paper, referred to by Mr. Bagwell in his Letter; he says, "In reply to your Letter of the 11th instant (Number 1329)"; that is the Number of the Commissioners Letter; Number 1407 is a Reference to a Paper relative to Transactions of the same Union, but not, I find, relative to this particular Case. I have already read the Particulars of that Paper to this House.

193. Is that all you have recorded upon this Subject?

We have recorded upon the Minute Book that Letter of the 18th March 1839, and the Circumstances upon which it is founded. I have not, however, the Minute Book; but a Copy of the Entry upon the Minute Book can be obtained for this House whenever required. That Letter will be found in this Return entered upon the Minutes, with the explanatory Circumstances upon which it is founded.

194. The House wish to see what came before the Commissioners before they made this Appointment, as they are responsible for this Appointment?

When the Appointment was actually made by a sealed Order of the Poor Law Commissioners, they had before them, as the Foundation of it, the Letter of Mr. Hancock and Mr. Hawley; and I do not think they had any other Papers. They hold the Assistant Commissioners solely responsible for the Returning Officer, and look to them for the Returning Officer's Acts; and if they have made a wrong Recommendation they are answerable for it.

195. They hold the Assistant Commissioners responsible?

Yes, in fact for the Appointment.

196. Have you read the Clause in the Act of Parliament?

I have.

197. The Law says that the Appointment is to be made by the Commissioners?

The Commissioners act at various Boards of Unions, and their Acts at Unions are performed through Assistant Commissioners.

198. You

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198. You have stated that the Commissioners employ the Assistant Commissioners to investigate the Characters of the Returning Officers before they are appointed ; Mr. Phelan, it appears, is one of those Assistant Commissioners ; you have also stated that Mr. Phelan was the Person who recommended Mr. Butler ; is it not very possible that this very Individual, Mr. Phelan, may have been the Assistant Commissioner intrusted by the Commissioners to inquire into the Character and Conduct of Mr. Butler before the Appointment ?

The only Inquiry that the Poor Law Commissioners positively directed to be made with respect to Mr. Butler was that Inquiry which Mr. Hawley reports the Result of in the Observations which have been just read. They did not direct the Inquiry to be made before Mr. Hawley and Mr. Hancock made their Report in February ; but when Mr. Bagwell complained of the Nomination of such a Person as Mr. Butler to be Returning Officer, the Commissioners directed Mr. Hawley to make strict Inquiry into the Matter, and report. I had Occasion to look at the Papers recently, and I recollect there is written on the Letter of Mr. Bagwell which is referred to Mr. Hawley, in Mr. Nicholls's own Handwriting, that it is always desirable that a political Man should not be employed ; that is in Mr. Nicholls's own Handwriting.

199. Have you any Means of knowing whether Mr. Hawley inquired whether Mr. Butler had been a political Character or not ?

The only Knowledge we have of the Result of the Inquiry is derived from the Observations which have been read to this House.

200. Then the Commissioners were not aware that Mr. Butler had previously taken part in political Movements in the Town of Clonmel, and had been taken up before the Magistrates for Examination, and that the Government recommended him not to be prosecuted, though a strong Case was made out against him ?

To the best of my Belief, no such Knowledge existed in the Minds of the Poor Law Commissioners.

201. Or of his assaulting the Police on that Occasion ?

I do believe that the Poor Law Commissioners, when they appointed Mr. Butler, and for a considerable Time afterwards, considered him to be a fit and proper Person, and were not at all aware of any of those Circumstances referred to.

202. At what Period did you ascertain the Bankruptcy of Mr. Butler ?

I cannot exactly recollect the Period that I heard it stated. I think in some of the Letters which we received at the Office it was stated that Mr. Butler was a Bankrupt, or an insolvent Man, or something of that Kind ; but I know this, that I did acquire a Knowledge of it, but it was a Knowledge arising after Mr. Butler had been appointed. If any of those Circumstances which I subsequently became aware of had come to my Knowledge before his Appointment I would have felt it my Duty to bring the Matter before the Commissioners.

203. How long ago can you state that those Circumstances came to your Knowledge ?

During the Period of the Election in 1839.

204. How does it occur that he was allowed to be Returning Officer in the Year 1840 ?

I will explain that at once. The Reason was simply this : there was a Case pending at the Time between him and some Parties in Clonmel in the Court of Queen's Bench, and the Commissioners felt that to have removed him from his Office then would have damaged him in the Cause in the Court of Queen's Bench ; it would have given a Sort of Evidence against him which they felt they ought not to give while that Case was pending.

205. Was that the Case of Pedder versus Butler ?  
Yes.

206. Did you ever hear of Davis being tried for Perjury ?  
Yes ; I am aware of that.



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207. Do you know any of the Circumstances of that Trial?

I think I read a Report of the Trial.

208. Was not a Report of the Trial sent to you?

There was a Report of the Trial sent to us; and I think I have read the Report of the Trial.

209. Was not Davis convicted of Perjury?

He was.

210. Was not the Affidavit upon which Davis was convicted of Perjury the Ground for almost all the Charges brought against Mr. Butler for Nonperformance of his Duty?

The Affidavit related to the Disclaimer of a Nomination, and it was relative to that Disclaimer that most of the Charges against Mr. Butler were made.

211. Was he not found guilty of Perjury upon that Affidavit which stated that his Disclaimer was not a false one.

He was.

212. And Mr. Butler was charged with having been the Person to suborn Davis to commit that Perjury, was he not?

I do not recollect a distinct Charge of that Kind in the Evidence; but I recollect somewhere, I cannot positively recollect where, having seen some such Imputation as that; but I do not recollect such a Thing as that having appeared in the Evidence in the Matter; and I would infer from the Fact of his not having been prosecuted for suborning, which is an Offence in the Eye of the Law equal to the Offence of Perjury itself, and punishable to the same Extent,—from the Fact of his not having been prosecuted as the Suborner, I would infer that there was not Evidence of the Fact; but I have seen the Matter stated somewhere, but I do not know that it was in Evidence.

213. Were you aware that since the Trial of Davis the chief Evidence has died?

No.

214. Have you never heard of that?

No.

215. When you read the Report of that Trial sent by Parties in Clonmel to the Commissioners, did you not see that every Charge brought against Butler was proved in the Perjury of Davis with reference to the Disclaimer?

I cannot answer that.

216. Do you mean that Mr. Nicholls, or Mr. Erle, or Mr. Phelan, never had any Conversation with you, after the Trial of Davis for Perjury, with regard to Butler's Conduct?

I had a Conversation with Mr. Nicholls after Davis was convicted, and that was the first Time that I observed Mr. Nicholls completely shaken in his Confidence in Butler.

217. Then Mr. Nicholls having been completely shaken in his Confidence in Butler, this Trial having taken place in the Month of May or June 1840, how does it occur that in the latter Part of the Year 1840, in November or December, the Commissioners wrote to certain Rate-payers in the Town of Clonmel, stating that they still meant to continue him as Returning Officer for Clonmel to the 1st of March 1841?

He was paid his Salary up to March 1841.

218. Notwithstanding then the whole of the Scene of Perjury and Fraud had been exposed in the Report of that Trial, and all the Guilt of Butler had become known, and Mr. Nicholls had been completely shaken in his Opinion of Butler, you retained him in the Office of Returning Officer till the 1st of March 1841?

I am not aware of his having any Act to perform as Returning Officer between that Time and March.

219. But still you retained him in his Office after such Conduct had become cognizant to the Board?

There is no Mode of displacing a Returning Officer but by terminating the Election.

Election. When he has completed the Business we consider him no longer the Returning Officer; he has no Act to perform till there is another Election. *Mr. W. Stanley.*  
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220. He continued in the Office of Returning Officer up to the 1st of March?

Yes; the Order was so in Form.

221. Was not that Letter written to the Guardians of Clonmel, stating that he should be Returning Officer up to the 1st of March 1841, though they stated, in their Remonstrance previously, that he had committed such and such Acts, and such Acts were known to the Board?

I do not recollect the Letter so particularly as to describe it, or to answer the Question whether it was so stated.

222. From Mr. Henry Pedder of Clonmel to the Commissioners, stating the Fact?

I only know this, that Mr. Butler remained in the Office of Returning Officer to 1841, because he had been Returning Officer for the Year before, the 25th of March 1840.

223. You have stated, that when the Poor Law Commissioners appointed Butler they had no other Recommendation before them than that of Mr. Hancock and Mr. Hawley, dated the 16th of February?

When the Order to be signed and sealed was placed before the Commissioners no other Paper was transmitted to them from the Office in Dublin to support the Appointment than the Report of Mr. Hawley and Mr. Hancock.

224. Then such being the Case, as you assert, how does it happen that on the 12th of February 1839 the following Letter appears in the subsequent Return, signed W. J. Hancock:—"Copy of Assistant Commissioner's Note on the foregoing Letter. Mr. Bianconi recommends most highly Mr. Butler for this Appointment of Returning Officer for Clonmel Union; he is the Nephew of Dr. Slattery, the Catholic Archbishop of Cashel, the only Archbishop of Cashel?"

That Report was not sent to the Commissioners.

225. To whom then was it sent?

That Report was retained among the Union Papers, and lay in the Custody of the present Assistant Commissioner in charge of the Union, until the Correspondence between the Assistant Commissioners upon the Subject was called for by this House.

226. How did it occur that in February 1840 and in May 1840, when Copies of all Correspondence were moved for, those Letters and Correspondence laid upon the Table of this House upon the 14th of March 1841 were not returned, they bearing minutely upon the Subject?

We only gave the Correspondence that we had in the Office; we did not give the Correspondence with the Assistant Commissioners; we gave the Correspondence of the Poor Law Commissioners, and all other Persons that we had in the Office. The Assistant Commissioners Correspondence did not appear to be called for, unless it were to be brought in by the Words "and other Persons;" but we did not consider them to apply. The Poor Law Commissioners did not call upon the Assistant Commissioners to return their Correspondence upon the Subject.

227. Then why did you not give the Letter of Mr. Hawley, dated the 16th of March 1839, which you must have had in May 1840, because it is addressed to the Commissioners?

It is not in the Return of the 11th of May 1840; and I recollect that that Report of Mr. Hawley is written upon the Back of Mr. Fennell's Letter.

228. But it is not in the Return of the 11th of May 1840?

No, but the Letter of the Poor Law Commissioners founded upon that Report is.

229. This Letter, stating that Mr. Butler is the Nephew of the Roman Catholic Archbishop, that he is a highly respectable Person, and that his  
(41.1.) Unfitness

*Mr. W. Stanley.*

16th March 1841.

Unfitness for the Office complained of by Mr. Bagwell can only have reference to his Relationship to the Prelate above mentioned, is not in the Return?

It is not; it was overlooked; this Return of May 1840 was prepared in a very great Hurry.

230. Then you have not sent a correct Return of the Correspondence lodged in your Office in May 1840?

I firmly believe that I overlooked it; it was an unintentional Omission.

231. What was the Length of Time between your Receipt of the Order to transmit that Return and the Time at which you did transmit it?

I have not the Date of the Order, nor can I state what the Date of the Order is from Recollection; but this Return, from the Length of it, I would say was prepared upon the very Day that we received the Order for it, and was sent over; and I think Mr. Nicholls was in London at the Time that this Return was ordered, and that he wrote to me a Letter urging the immediate Preparation of the Papers; but I do not know the Date of the Order of this House for the Return of May 1840.

232. Have you no Record of that Date?

This Book does not extend to 1840; the last Entry in this Book is a Letter dated the 21st of June 1839.

233. Then you have no Recollection of the Interval between the Receipt of the Order and the Transmission of the Papers?

No, none whatever; but I would say that the Return was prepared instantaneously; we did not let a Moment elapse in setting to work in making the Return.

234. Did you think that there was any thing more pressing in that Order than in the Orders you usually receive?

That is our uniform Practice; the Moment we receive an Order from either House of Parliament or Government we proceed at once to make the Return or supply the Information desired.

235. Turn to the Register Book, and see if you have not got in it Mr. Hawley's Letter, dated the 16th of March 1839?

That is on Mr. Bagwell's Letter. I have searched for it, and I have already explained that it must be on Mr. Bagwell's original Letter, and therefore that no further Entry was made upon this Book, the Paper already having the Number from this Book.

236. Then where is the Entry of that Letter of Mr. Hawley on the 16th of March 1839?

On our Minute Book.

237. Where is that Minute Book?

In Dublin; we did not conceive it to be necessary to bring that, but if necessary I shall have it immediately brought forward.

238. Can you state between what Dates that Letter of Mr. Hawley of the 16th of March is placed in the Minute Book?

That Letter of Mr. Hawley is not copied upon the Minutes, but the Subject of it is referred to, and it is made the Basis of this Letter of the 18th of March 1839, in reply to Mr. Bagwell. I would say at once that the Preamble generally run, "The Commissioners took into consideration the Letter from Mr. Bagwell of the 12th of March 1839; also the Report of Mr. Hawley thereon, stating so and so, and resolved that the following Letter be addressed to Mr. Bagwell." I would state, from Recollection, that the Minute must run pretty much in that Way; it is the general Form in which we enter the Minutes.

239. Where do you find the Record from which you copied this Letter of Mr. Hawley?

It is written by himself upon the original Paper of Mr. Bagwell; written on the Back of it. We have made no Transcript of it.

240. But you must have received this Letter of Mr. Bagwell before Mr. Hawley's?

*Mr. W. Stanley.*

Yes; those Observations of Mr. Hawley I do believe are upon the original Letter of Mr. Hawley.

16th March 1841.

241. But Mr. Hawley's Letter is dated "Tipperary"?

The Letter was sent to the Poor Law Office, and, as I said before, it was returned with Observations upon it from Mr. Nicholls, stating that it was desirable always to avoid appointing a political Man; and Mr. Hawley's Reply might be dated from any of the Thirteen Unions in which he acted, wherever he was. He would have gone to Clonmel in the meantime to make his Inquiries there, and make his Report subsequently, for you perceive that there are Six Days between the Date of Mr. Bagwell's Letter and the Date of the Answer; that would be accounted for by the Time that Mr. Hawley took to make his Inquiries.

242. The Commissioners state in their Letter to Mr. Bagwell that they have made further Inquiries, and received strong Recommendations. Now there is not one Word of Recommendation in Mr. Hawley's Letter.

He says Mr. Butler was strongly recommended to him.

243. No further Inquiries were made by Mr. Hawley?

I presume that Mr. Hawley, before he made such a Report as that to the Commissioners, did make Inquiries; if he did not he was guilty of a very great Dereliction of his Duty.

244. He was in Tipperary when he wrote?

He might have been in Tipperary when he wrote that Letter, having made his Inquiries previously. The Assistant Commissioners are continually on Circuit through their District. He might have been in Clonmel on the Day before, and stopped at Tipperary for another Day, and had an Opportunity there of making his Report, or perhaps he might not have had Time to make it before he left Clonmel.

245. That is your Belief?

That is mere Conjecture; it is merely endeavouring to account for the Circumstance; I do not speak at all to the Fact.

246. Why did you not return the Observations of Mr. Hawley on the Back of that Letter of Mr. Bagwell, as Part of the Correspondence originally? You returned Mr. Bagwell's Letter, and on the Back of it there were the Observations of Mr. Hawley, which are not returned?

I recollect precisely the Position of it. The Letter Mr. Bagwell has written on the first Leaf, and that of Mr. Hawley is written across this Way on the Back of the Letter; and I recollect particularly the Position of it from this Circumstance, that there is an Observation made in Red Ink upon the Margin of it, indicating that the Word "Nephew" had been written in lieu of "Son-in-Law" by Direction received from Mr. Hawley, for in Mr. Hawley's original Report he described Mr. Butler as "Son-in-Law" of the Catholic Archbishop, and he wrote a Note subsequently to have it altered to "Nephew," and it stands so on the Back of the Letter, and it might appear to terminate upon this Leaf. It is very easy to account how a Person might have omitted seeing that at once. It was entirely an Omission; I declare solemnly that it was an unintentional Omission.

247. Why did you not give the Letter sent by the Commissioners to Mr. Hawley, requesting him to make further Inquiries with respect to Mr. Butler.

Those Observations of the Commissioners are merely written upon Mr. Bagwell's Letter, at the Top of it. All References to Assistant Commissioners to make Inquiries are written on the Letter which makes the Inquiries necessary; and it says, "Mr. Hawley," or any other Assistant Commissioner, "is directed to inquire and report," or "Mr. Hawley should immediately investigate the Circumstances of this Case," or Words to that Effect; and in this particular Case I recollect distinctly the remarkable Observation of Mr. Nicholls, cautioning him against a political Man being appointed.

Mr. W. Stanley.  
16th March 1841.

248. Why did you not send that Observation with the Return ?

We have never considered that intermediate Minutes of the Commissioners in making Inquiries in that Way properly fell within the Meaning of the Order.

249. In the Return made to this House in the Month of May you returned the Letter sent by Mr. Fennell offering himself to be Returning Officer. Why did not you return the Letter of Mr. John Butler offering himself to be Returning Officer, who writes on the 6th of February, and Mr. Fennell on the 15th ?

That Letter of Mr. Butler is addressed to Mr. Phelan, and it only came before the Commissioners in consequence of the Order of this House, requiring the Correspondence between the Assistant Commissioners upon the Subject of the Appointment.

250. Why did not you give those Words which are marked with Asterisks here ?

They are on a Subject entirely foreign to the Union and to the Appointment.

251. Have you got the original Letter with you ?

I have.

252. Produce it? (*The Witness produced it.*)

The Letter was read as follows :

“ Dear Sir,

Clonmel, 6th February 1839.

“ It is my Intention to make Application to the Poor Law Commissioners here for the Situation of Returning Officer for this Union. Before I do so, it would be advisable to have an Introduction to these Gentlemen, not being acquainted with them.

“ You would particularly oblige me by writing to Mr. Hancock and the other Commissioners on Receipt of this, introducing me to them, and using your Influence with these Gentlemen in my Favour for this Situation, or any other that may offer under them, either in this Union, Clogheen, or that Neighbourhood. You are aware that I am well acquainted with the People in this Part of the Country, and therefore would be well calculated for this Office. You are, I am sure, acquainted with these Gentlemen, and your Interference will of course be much in my Favour, and have no Doubt of your good Intentions towards me.

“ I beg the Favour of an Answer by return of Post, in which you could annex the Letter to Mr. Hancock and the other Gentleman.

“ The Attorney General has done nothing for me, as yet, though he has always made me very fair Promises. I wrote Three Letters to him lately, to which I received no Answer. Should you see him, please mention this Circumstance to him. I hope Mrs. Phelan and all your Family are well. Mrs. Butler is not yet returned from Thurles. She is quite recovered, and comes home in a few Days,

“ I am, dear Sir,

Your obedient Servant,

JOHN BUTLER.”

“ Denis Phelan, Esq.,  
&c. &c.’

253. Was not the Attorney General Member for the Town of Clonmel ?

I am not sure whether the Member then for the Town of Clonmel was an Attorney General ; I have not looked into the Matter at all ; I do not know whether that alludes to the present Attorney General for Ireland ; I have no Knowledge of the actual Person it refers to. I believe the Attorney General, Mr. Ball, was Member for Clonmel, and the Impression upon my Mind would be that that referred to Mr. Ball.

254. Do not you suppose that Mr. Butler in writing that Letter to Mr. Phelan wished that the Attorney General should interest himself, and that he should be appointed Returning Officer ; is not that the View you take of it ?

No, it is not ; and for this Reason, that I know he did not ; at least we have no Knowledge of it in the Office.

255. Do

255. Do you not conceive that Mr. Butler, by writing this Letter to the Attorney General, and mentioning the Circumstance to Mr. Phelan, wished the Attorney General to recommend him as a fit and proper Person to be Returning Officer in Clonmel?

*Mr. W. Stanley.*  
16th March 1841.

We did not consider that an Application from such a Person as the Attorney General was at all requisite for obtaining such a Situation, and it is not referred to at all by Mr. Hancock in the Testimonial that he speaks of with reference to Mr. Butler's Character; he refers rather to Mr. Bianconi and some local Parties than to any political Friends of Mr. Butler.

256. But where he says, "should you see him, please mention this Circumstance to him," does not that allude to the Appointment of Returning Officer?

No; I think it means the Circumstances that he referred to in that particular Complaint; a Complaint that he makes of Inattention; at least we thought that it must have meant a Complaint of Inattention.

257. And not referring to the Wish that the Attorney General should interfere to have him appointed Returning Officer?

No.

258. Must he not have belonged to a particular Party for the Attorney General to have recommended him to any Place? Did it not strike the Commissioners that when a Man applies for an Office to the Attorney General he must belong to a particular political Party in the Town of Clonmel?

Yes, I am aware of that; but we had no Recommendation from the Attorney General for Mr. Butler, and I never heard it mentioned that Mr. Butler had been recommended by the Attorney General.

259. You stated some Time since that there were certain Letters of which you kept no Copy?

There are many Letters written of which no Copy is kept.

260. Are you aware that under the Act of Parliament you are obliged to keep a Minute of all your Proceedings, and your entire Correspondence?

The Minute is on the Paper, and all that we do to form the Letter is to put a Prefix, either, "I am directed by the Poor Law Commissioners to state," or, "The Poor Law Commissioners desire me to state," and then to go on with the Minute.

261. You are aware that that is intended to be a faithful Record of the Proceedings, and the Letters that pass between the Poor Law Commissioners and other Parties?

Yes.

262. You alluded to no Date Column being there, but you state that the Dates of the Letters are kept; how are they kept?

Originally, at this Period of 1839, the Beginning of our Proceedings in Ireland, we could only tell the Date of the Receipt of a Letter from the Date of the Minute upon it.

263. Is that the Book you at present use for this Purpose?

No; the Form has been changed.

264. In the new Form is there any Column for the Dates of the Letters when they are received?

I am not prepared to swear to that; but the Letters are now kept in quite a different Mode from this.

265. With respect to these Two Extracts of the Letter of Mr. Phelan, you have been questioned as to the Sentence which you omitted, "Mr. Butler lately retired from Business, and resided in Clonmel as a private Gentleman;" your Attention is called to the next Sentence to that, in which these Words were omitted, "when the Poor Law Union was about to be formed there;" why were those Words omitted?

That was done merely to make the Paragraph concise, and keep it to the Purpose.

*Mr. W. Stanley.*  
16th March 1841.

266. Do you consider yourself at liberty, in making Extracts from a Letter, to alter the Words, and alter the Frame of a particular Sentence?

I omitted the Words from the Extract. The Extract was merely given to show the Character of Mr. Butler, and to show the Circumstances under which Mr. Phelan had recommended him to be appointed; and that being given, I thought that the Matter was sufficient.

267. In point of fact, as far as regards that Sentence, it was not a faithful Copy of the Letter of Mr. Phelan?

It was not a faithful Copy.

268. You state that the Words, "When the Poor Law Union was about to be formed there," were only omitted for the Purpose of making the Sentence more concise?

For no other Purpose. It was not with any View of concealing any Information whatever from this House.

The Witness was directed to withdraw.

Adjourned.

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Poor Law Commission, Ireland.

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MINUTES OF EVIDENCE

TAKEN

BEFORE THE HOUSE OF LORDS

RELATIVE TO

CERTAIN RETURNS

MADE BY THE POOR LAW COMMISSIONERS TO ORDERS OF THE HOUSE

RESPECTING

The APPOINTMENT of JOHN BUTLER to the SITUATION of  
RETURNING OFFICER of the CLONMEL UNION.

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18th March 1841.

Mr. WILLIAM STANLEY - - page 31  
Mr. WILLIAM WODSWORTH - - page 46

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*Die Jovis, 18° Martii 1841.*

**THE** Order of the Day being read for the Attendance of Mr. William Stanley,  
Secretary to the Irish Poor Law Commissioners—

Evidence re-  
specting certain  
Returns made by  
the Poor Law  
Commissioners.

Mr. WILLIAM STANLEY is again called in, and further examined  
as follows :

Mr. W. Stanley.

269. WILL you turn to the Return of the early Part of May 1841 ?  
I have got it.

270. Refer to No. 7. " Copy of a Letter from John Bagwell, Esquire, to the  
Poor Law Commissioners," in which he states, " Upon minute Inquiries I  
am given to understand that Mr. John Butler is a most unfit Person for the  
Office of Returning Officer in this Union, for Reasons which it is unnecessary  
to state ; but if the Commissioners inquire I am certain they will agree with me  
and the other Land Owners in the Union." Was that Letter ever sent to the  
Poor Law Commissioners, either in the Office in Dublin or in London ?

I hold the Letter in my Hand.

271. Was it ever sent to the Poor Law Commissioners ?

There is a Minute in the Handwriting of Mr. Nicholls, dated the 14th of  
March 1839, that is, Two Days after the Date of the Letter.

272. Then Mr. Nicholls did see that Letter ?

Mr. Nicholls saw the Letter ; Mr. Nicholls returned to Ireland immediately  
before ; he returned from London on the 12th of March, and this Paper was  
before him on the 14th of March, and he then referred it to Mr. Hawley. I  
will read the Minute : " Mr. Hawley, with previous Letter, to inquire into and  
report ;" and a further Minute of the same Time, " A neutral Man would on all  
Occasions be best ; strong Party Men should be avoided."

273. Will you read Mr. Hawley's Letter in reply ?

" Tipperary, 16th March 1839.—Mr. Butler is the Nephew of the Roman  
Catholic Archbishop, Dr. Slattery, and has been strongly recommended to us ;  
he is a highly respectable Person, and his Unfitness for the Office, complained of  
by Mr. Bagwell, can only have reference to his Connexion with the Prelate above  
mentioned. I believe that his Appointment will give general Satisfaction in  
Clonmel.—(Signed) W. H. T. HAWLEY."

274. Did the Commissioners make any Inquiry of any other Persons except  
Mr. Hawley ?

They directed Mr. Hawley to make the Inquiry ; the Direction is to  
Mr. Hawley, to inquire into and report.

275. Did they make any Inquiry of Mr. Phelan, to the best of your  
Knowledge ?

Not at this Time ; there is no Mark of a Reference to Mr. Phelan on this  
Paper ; there might have been some Conversation with him, but to my Know-  
ledge there was no Reference.

276. What is the Date of Mr. Hawley's Letter ?

Tipperary, March 16th.

277. Do you know whether any Explanation has ever been required of  
Mr. Hawley since on the Subject of that Letter, in which he appears to have  
been so greatly deceived ?

I do not recollect. We have no official Report on the Subject from Mr. Haw-  
ley relative to any Inquiry into Mr. Butler's Conduct.

(41.2.)

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278. Nor

Mr. W. Stanley.  
18th March 1841.

278. Nor have you any Reason to suppose any Inquiry has been made?  
I have not.

279. When Mr. Nicholls wrote that Minute you have just read, deprecating the Appointment of a Partizan, which was done in March 1839, had he before him the Letter from Mr. Butler to Mr. Phelan, dated the 6th of February 1839?

He had not.

280. Do you mean to say that he gave those Directions without having seen all the Papers that had passed in respect of the Appointment of Mr. Butler?

My Belief is, that Mr. Nicholls never saw that Letter of the 6th of February 1839 until it was required for the Return last presented to this House; it was then got from the Assistant Commissioner in charge of the Union.

281. When the Letter of Mr. Bagwell was referred to Mr. Hawley, to what Place was it addressed?

I cannot answer that Question, for the Assistant Commissioners changed their Addresses almost every Day; he might have been, perhaps, in Clonmel on that Day, and the next in Tipperary; he might probably have been at Limerick, where he resides, when the Reference was made. I could ascertain it for your Lordships in the course of the Evening; I should be able to give in his Diary for that Time.

282. That Letter was sent to him on the 14th, was it not?

It was referred to Mr. Hawley on the 14th.

283. If it was sent to any other Place than Tipperary it would not have been received by him before the 16th, the Day on which he answered the Letter, and therefore he would have no Time to make any further Inquiry?

Just so; it would have taken Two Days to do that if he had moved from the Place where he was addressed.

284. The Commissioners stated in their Answer that they had made further Inquiries; did they inquire of any other Person except Mr. Hawley, the Person who had made the Recommendation?

I believe they did not, but they expected he had.

285. How could he do that if he answered by the next Post, he probably not being in the Place to which they directed the Letter?

I cannot say at present whether he was in Clonmel before he wrote that; the Distance is only Two or Three Hours drive from Clonmel to Tipperary; he might have made his Inquiries in Tipperary on the 15th, or probably on the 16th, and written his Letter from Tipperary on the Evening of the 16th.

286. Do you now believe that if Inquiries had been made at Clonmel the Result would have been the Letter which Mr. Hawley appears to have written, from what you know of the Character of Mr. Butler?

If the Inquiries had been made as to his Character, I should say not; I should say that the Opinions of the Parties on both Sides should have been taken and reported to the Commissioners, but the Commissioners had no Idea that the Case was not clear enough to enable Mr. Hawley to make that official Report to them he did. Mr. Nicholls was wholly unacquainted with any Circumstances relative to Mr. Butler at this Period, excepting the Circumstances of his having been recommended for the Office of Returning Officer by the Assistant Commissioners, and of this Complaint against him on the Part of Mr. Bagwell, and this Report relative to that Complaint from Mr. Hawley.

287. In the Letter of the 18th of March, the Commissioners not only stated that they had made further Inquiries, whereas they had made no further Inquiries, but from the Person from whom the Recommendation proceeded; but they go on to give the Result of those Inquiries: "They now desire to state that they have received strong Recommendations in favour of the Appointment, founded on Mr. Butler's personal Qualifications." Had they received any other Recommendation than that contained in the Observations made by Mr. Hawley?

I believe they had, and I believe the Meaning of that Statement by the Commissioners

Commissioners is, that they made Inquiries through their Assistant Commissioners, and that their Assistant Commissioners had received those high Recommendations.

*Mr. W. Stanley.*

18th March 1841.

288. Does not the Expression "strong Recommendations" imply that they had been received from more than One Person?

The Words in Mr. Hawley's Report are "strongly recommended." One should suppose that when he received a Complaint against the Returning Officer from a Person of Mr. Bagwell's Station in Society he would have taken a Recommendation from more than One Person. We were aware that he had been strongly recommended by Mr. Phelan, the Assistant Commissioner, but we could not presume that Mr. Hawley would have been satisfied with the Recommendation of Mr. Phelan, as set against the strong Remonstrance of such a Gentleman as Mr. Bagwell.

289. Did Mr. Hawley apply to Mr. Bagwell to know the Reasons why he objected to his being appointed?

I know nothing of the Course he adopted, or to what Parties he applied, or to what Parties he alludes when he says that this Gentleman has been highly recommended, except that I know that Mr. Phelan recommended him; but I am confident he must have been recommended to Mr. Hawley by other Persons than Mr. Phelan, or he would not have satisfied himself in making such a Report; at least he should not.

290. You do not seem to be satisfied that the Appointment was made before the Report came from Mr. Hawley merely because Mr. Phelan had recommended him to Mr. Hawley?

I never felt satisfied that the Appointment was made.

291. Did Mr. Butler compound with his Creditors?

I have no actual Knowledge of the Fact. I have heard that stated; but I have no actual Knowledge of it.

292. That Fact was not known in the Office of the Poor Law Commissioners in Dublin?

Certainly not; it was not known to the resident Poor Law Commissioner in Dublin. It might have been known to one Party in the Poor Law Office, if it was the Fact, but it was not known officially to the Board.

293. To what Party do you presume that it might have been known?

If Mr. Butler had been insolvent or bankrupt at that Period I presume the Fact might have been known to Mr. Phelan, who had been acquainted with him for Twenty-seven Years, as he states. That is a fair Presumption, however.

294. After all this Inquiry that Fact never came out?

We had no Statement of it; it is not stated, I think, by Mr. Bagwell; I do not recollect its being stated; certainly it was not stated to the Commissioners in any way before the actual sealed Order for the Appointment was issued.

295. Did not Mr. Bagwell state that he was a most unfit Person, for Reasons it was unnecessary to state?

Yes; but we did not know what those Reasons were.

296. Was Mr. Bagwell called upon to state them?

Not directly by the Commissioners.

297. Or by any one, to your Knowledge?

I do not know whether Mr. Hawley might have called upon him; he might have called upon him in Clonmel. Were I, as Assistant Commissioner, to receive such a Letter from such a Gentleman as Mr. Bagwell, I should have felt it my Duty to have gone to him.

298. Is not Mr. Bagwell the principal Landowner in the Union?

He is, in Clonmel, I believe; I do not know whether he is in the Union, but I believe he is in the Town of Clonmel, and round it.

299. Would he not have been the Person best acquainted with the Politics of Mr. Butler, and the Circumstances affecting him, if he had been applied to?

He might have been aware of them, but I presume other Parties could have been equally well aware.

(41.2.)

I

300. When

*Mr. W. Stanley.*  
18th March 1841.

300. When Mr. Bagwell's Letter was sent to Mr. Hawley, stating that he was an unfit Person, was not it very natural he should have gone to Mr. Bagwell, he being the Person best able to give an Answer ?

I think he ought to have gone to Colonel Bagwell, or Mr. Bagwell, or to have written to him.

301. Did Mr. Hawley, in Conversation with you or the Board, state that the only Reason that Colonel Bagwell could have for objecting to Mr. Butler was that he was the Nephew of the Roman Catholic Archbishop ?

Mr. Hawley has not been in Dublin perhaps more than Once or Twice since that Complaint. The Assistant Commissioners who are in the out Districts are very seldom in Dublin. I do not think I ever had a Conversation with Mr. Hawley upon the Subject, nor am I aware that he ever called at the Office on the Subject.

302. Do you mean to assert To-day that you do not consider that Mr. Butler's Appointment was made on the Recommendation of Mr. Phelan ?

I think that primarily the Appointment was conferred or that he was selected for the Office on the Recommendation or in consequence of the Recommendation of Mr. Phelan.

303. Do you mean to say that it was not held in the Office, directly it was known Mr. Butler was recommended by Mr. Phelan, before any Recommendation came from the Assistant Commissioners, that the Appointment would be made ?

I believe it was held in the Office that the Appointment was conferred when Mr. Phelan informed us of it.

304. That was before any Recommendation had come from the Assistant Commissioners of the Union ?

I think so.

305. Then in fact you assert again what you asserted on the former Day, that the Appointment was made by Mr. Phelan in Dublin without any Recommendation coming from the Assistant Commissioners of the Union. The Question and Answer are in these Words ; Number 144. " Do you mean to state that the Assistant Commissioner in Dublin recommends a Returning Officer to the Assistant Commissioners of the Union, and calls upon them for a Recommendation to cover that Appointment ; is that your Meaning ?" Your Answer is, " In that Case it is the Fact."

By " covering that Appointment" I did not mean then that Mr. Phelan was making the Appointment ; it should be rather, " covering the Recommendation."

306. You wrote to Mr. Fennell that the Appointment had been conferred on another Person ; or you wrote to him that the Commissioners had recommended the Appointment to be conferred on another Person ; there being that Discrepancy between the Two Letters, still you say you held it was true, because, from what Mr. Phelan stated, it was known that the Recommendation had been made ?

I abide by this, that Mr. Phelan had recommended Mr. Butler to the Appointment, and that he was primarily instrumental in having him appointed the Returning Officer ; that is my Belief, that he recommended him to the Assistant Commissioners ; and that I conceived they were moved primarily, and perhaps principally, by the Recommendation he had given.

307. Did not you in the Office consider that Mr. Butler was appointed as soon as Mr. Phelan had recommended him, before any Recommendation had come from the Assistant Poor Law Commissioners of the Union ?

I conceive this ; he was selected, or the Office was conferred upon him, before the Letter came from the Assistant Commissioners, and that was done, I believe, through the Instrumentality of Mr. Phelan.

308. Then you assert that solely on the Recommendation of Mr. Phelan that Appointment was made ?

I say that, primarily, he was instrumental in it ; but I see in Mr. Hancock's Statement——.

309. Will you give a direct Answer to that Question,—Then you assert, that

that solely on the Recommendation of Mr. Phelan that Appointment was made?

Mr. W. Stanley.

18th March 1841.

If instead of Appointment the Term were "selected," I should be quite satisfied that he was selected, and the Appointment conferred upon him, through Mr. Phelan, before we received the Letter from the Assistant Commissioners.

310. How was the Appointment made?

The Appointment was made by the Poor Law Commissioners under a sealed Order, which they issued in this Case a Month after the Returning Officer had been selected.

311. What is the Date of that Order?

It is dated in March; that is my Difficulty in answering the Question. The actual Appointment did not take place till March; the Selection of the Returning Officer took place in February, at the Period referred to in the Question.

312. The Appointment is always the Ratification by the Commissioners of the Selection?

Precisely.

313. Mr. Butler was selected by Mr. Phelan before the Assistant Commissioners forwarded any Recommendation of him?

On Mr. Phelan's Recommendation he was selected by the Assistant Commissioners, and we were aware of his having been selected by the Assistant Commissioners before their official Report for his Appointment.

314. How were you made aware of that?

It must have been through Mr. Phelan, who was at the Time in the Office. I have brought the Diaries with me.

315. You state that the Selection was made on the Recommendation of Mr. Phelan, before the Poor Law Commissioners forwarded any Recommendation of Mr. Butler; do you abide by that Answer?

I think the Selection did take place on Mr. Phelan's Recommendation, before the Assistant Commissioners made their Report.

316. The Selection is always ratified by the subsequent Warrant of the Poor Law Commissioners?

I have never known an Instance to the contrary.

317. It appears from the Returns before this House, that Mr. Phelan's Letter to Mr. Hancock is dated on the 9th of February, and Mr. Hawley's Letter is dated on the 16th of February; therefore, how could Mr. Phelan have made that Recommendation to the Office previously?

Mr. Phelan never made a Recommendation to the Poor Law Commissioners; his Recommendation was to the Assistant Commissioners. We have no Paper in the Office, nor any Minute in the Office, to show that Mr. Phelan ever made any other Recommendation of Mr. Butler before the Appointment took place than to the Assistant Commissioners who made the Selection of Mr. Butler.

318. Who were the Commissioners who made the Selection of Mr. Butler?

Mr. Hawley and Mr. Hancock, the Assistant Commissioners, selected, and on that Report recommending the Appointment to be made the Appointment was made; that being the usual Course.

319. Mr. Bagwell, in his Letter of the 12th of March, says, that Mr. John Butler is a most unfit Person for the Office, for Reasons which it is unnecessary to state; Mr. Hawley, in his Observations on that Letter, dated the 16th of March, says that "the Unfitness for the Office complained of by Mr. Bagwell can only have reference to his Connexion with the Prelate above mentioned," namely, Dr. Slattery; have you any Reason to suppose, or do you know, whether Mr. Hawley ever made any Sort of Inquiry of Mr. Bagwell, or asked him, what his Reasons were?

No, I have not.

320. Mr. Fennell, in his Letter of the 15th of February, requests the Commissioners to ask Mr. Phelan what his Character and Qualifications were; did the

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the Commissioners make that Inquiry of Mr. Phelan, what were his Character and Qualifications?

The Poor Law Commissioner for Ireland was not in Dublin at the Time. That, therefore, I stated on my previous Examination, I suppose must have induced either Mr. Earl or myself to show it to Mr. Phelan, and ask him what he knew of Mr. Fennell; and that is the Reason why I stated in my last Examination there was a strong Presumption that Mr. Phelan, on seeing the Reference to him received at the Poor Law Office in Dublin on the 16th, stated that the Office had been conferred on Mr. Butler, his Friend, by Mr. Hancock and Mr. Hawley.

321. How could that have been the Case, when the 18th was the Day on which Messrs. Hawley and Hancock's Letter arrived, and Mr. Fennell's Letter was replied to on the 18th also; how is it possible they could have had Time to make the Inquiries?

They appear to have made the Inquiries before the 12th, according to the Note of Mr. Hancock among the Papers now before this House.

322. In what Return do you find those Inquiries?

In the Return presented on the 12th of March 1841. Mr. Hancock says, "Mr. Bianconi recommends most highly Mr. Butler for this Appointment of Returning Officer for Clonmel Union; he is the Nephew of Dr. Slattery, the Catholic Archbishop of Cashel, the only Archbishop of Cashel;" that is dated the 12th of February.

323. To whom was that Letter of Mr. Hancock directed?

It is in the Form of a Minute on the Paper.

324. What Paper?

It is on the Letter of Recommendation that he received from Mr. Phelan.

325. When was that received by the Poor Law Commissioners?

The Poor Law Commissioners received that only when this Return was called for.

326. How long afterwards?

Precisely when the Correspondence with the Assistant Commissioners on the Subject of this Appointment was called for by Order, then this Letter came forth.

327. Then that Letter of Mr. Hancock's could have no reference to the Appointment of Mr. Butler, if they did not see it till Two Years afterwards?

It could have no Influence with the Poor Law Commissioners in issuing their Warrant, or on the Appointment; it could have had an Influence simply on the official Report, signed by Mr. Hawley and by Mr. Hancock, on the 16th of February. The Poor Law Commissioners never investigated the Matter further than taking the Report of their Assistant Commissioners, whom they held responsible for the Appointment and for the due Execution of the Duties of Returning Officer.

328. You have just said that the Commissioner in Dublin who selected Mr. Butler for the Appointment had the Recommendation of Mr. Hancock before him?

I conceive I stated that it was the Commissioners for the Union in Clonmel who selected Mr. Butler for the Office; they had the Recommendation primarily of Mr. Phelan. They appear, however, to have made some Inquiries besides, for they refer to Mr. Bianconi, who also states him to be a respectable Man.

329. Do you know Mr. Bianconi by repute or Person?

I have seen him; he has been in my Office.

330. Very frequently?

No; I think I saw him once; certainly not more than twice.

331. Are you aware of Mr. Bianconi's Politics?

Not more than by general Rumour.

332. What does general Rumour say?

I would say that general Rumour would describe him as a Reformer.

333. Did

333. Did you never hear of his being a Repealer?

I never did.

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334. It is the Recommendation taken by Mr. Hancock?

I say that appears to be one of the Inquiries he made according to his Statement on the Paper.

335. Who is Mr. Bianconi; what is his Profession?

I believe he is a Person possessed of some Property at Clonmel.

336. Are you aware of any other Inquiries made, excepting of Mr. Bianconi?

I am not.

337. In the Evidence you gave on Tuesday last, at Question 202, you were asked, "At what Period did you ascertain the Bankruptcy of Mr. Butler;" you stated in reply, "I cannot exactly recollect the Period that I heard it stated. I think in some of the Letters which we received at the Office it was stated that Mr. Butler was a Bankrupt, or an insolvent Man, or something of that Kind." Have you any of those Letters?

We had made Returns of most of the Letters we have received relative to him, and the Remainder of the Letters are now in the course of being copied for the Completion of another Return.

338. What Returns?

A Return to this House of the Correspondence relative to the Election in Clonmel.

339. If there is any further Correspondence relative to the Election of Guardians for Clonmel, and the Returning Officer Mr. Butler, why were not those Letters placed in the Returns of February and May last?

The Order was for all the Papers we had, or that we supposed we had, at the Time we gave in those Returns; the Order now is for all Letters subsequent to the Date of May 1840, and that Return is now being prepared.

340. Do you believe that there are Letters in the Poor Law Office which gave Information relative to the Insolvency of Mr. Butler?

I cannot say of my Knowledge that there is a Letter actually stating that Fact. I have heard —

341. You mentioned that you had heard something?

I have heard such a Statement of his being a Man in insolvent Circumstances; or rather in reduced Circumstances, I should more properly describe him. I do not think I ever heard that he was what is properly called an Insolvent or a Bankrupt.

342. Will you turn to No. 8. in the Returns printed on the 17th of February?

I have it; it is to Mr. Pedder.

343. Have you a Letter in the Register Book signed Henry Pedder, dated Clonmel, 11th of May 1839?

I must beg to refer to the Register (*the Witness referred to the same*). I beg your Lordships Pardon for the Loss of Lime; had I been aware, I would have had the Index from Ireland of the Contents of this Register; it is very difficult to find a particular Paper without it. I have a Letter of the 10th of May, from Henry Pedder, Esquire.

344. What does that say?

"Relative to the Conduct of the Returning Officer, and requesting the Commissioners not to sanction the Appointment of Mr. Keily, proposed as Clerk."

345. Is that all?

The Reference on it is, "See Minutes of 16th of May, and see Paper 2210." One of the Papers referred to is a former Letter from Mr. Pedder, dated the 21st of May, requesting a Reply to his former Letters.

346. The Letter of the 11th of May states, "Gentlemen, The Majority of Rate-payers and Land Owners of this Union, and of all the Divisions, are anxiously expecting some Inquiry into the Conduct of Mr. Butler, the Returning



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turning Officer for the late March Election. May I beg to know if any will be granted, as we are advised we have quite sufficient Evidence to bring before the Queen's Bench to have the Election declared void, and it is the fixed Determination to have the entire Proceedings brought before Parliament?" That Letter sent to the Poor Law Commissioners does not appear in this Return?

I do not find it in the Return.

347. How does it happen that it is not in the Return?

I cannot answer for that. I have just sent for the Minute Book to see what is the Order on it.

348. Why is it that this Letter which Mr. Pedder sent to the Poor Law Office is not in the Return to this House?

It has been overlooked by the Clerks who took out the Papers from the Portfolios.

349. Then this is not a correct Return to the Order of the House?

I am sorry to find it is not a correct Return as respects that Letter; it contains every Letter that was brought to me.

350. Was the Letter purporting to be written from the Poor Law Commissioners to W. H. Ryall, Esquire, dated the 21st of May, ever written to Mr. Ryall?

I believe it was.

351. You are not certain?

I am certain, from the Circumstance of its being here.

352. Have you a Copy of it?

I have not any other Copy than this here.

353. I hold in my Hand a Letter addressed to Stephen Moore of the same Date, which is to be found in the Return to the same Effect?

It is probably the same Letter. Perhaps it may be accounted for in this Way: I have this Letter as a Reply to a Communication from Lord Glengall and other Justices of the Peace in the Clonmel Union; they might have put the Name of Ryall on the Copy instead of the Name of Moore, and I would account for it in this Way. I see Mr. Ryall's Name is at the Head of the List of Justices who made the Statement to which that relates.

354. Do you find among your Papers any similar Letter addressed to any body else?

No, I do not. There is a Letter to Mr. Moore, dated 25th of May, relative to No. 21; it is on the same Subject, but not in the same Words.

355. Turn to the Return ordered to be printed the 12th of May 1840 by this House, "The Correspondence which has taken place between the Poor Law Commissioners and Boards of Guardians in Cases where the Commissioners have objected or declined to confirm the Election of Valutors to the Union made by the latter?"

I have not got a Copy of that Return. I recollect the Return. (*A Copy was handed to the Witness, and he added, This is a Return presented on the 18th of May 1840.*)

356. Can you bring back to your Recollection the Circumstance of the Board having been applied to by certain Guardians and certain Rate-payers of the Clonmel Union, who objected to Mr. Butler having been appointed Valuator of the Town of Clonmel?

Perfectly; I recollect the Circumstance.

357. He was elected by the Guardians, was he not, to be the Valuator of the Town of Clonmel, as well as Returning Officer?

He was Returning Officer at the Time.

358. And he was elected Valuator?

Yes.

359. The Commissioners disallowed?

They did.

360. The Board of Guardians then elected a Person of the Name of Wall to be Valuator; do you recollect that Circumstance?

I have the Resolutions before me.

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361. A Letter was sent by Henry Pedder, dated the 25th July, One of the Rate-payers of the Union, inclosing a Protest, stating that Wall was Brother-in-Law to Butler, and merely his locum tenens; that Letter does not appear in the Return?

It is not in the Return, but I should think that it was acted on, from the Circumstance of the Commissioners having declined to sanction the Appointment of Wall.

362. The Return should have included all Correspondence on that Subject; why was not that inserted?

It may have gone to the Assistant Commissioner for the Union, and not been returned by him. I suppose the Clerks did not find it in the Portfolio.

363. It was addressed to the Poor Law Commissioners in Dublin?

There are many Letters addressed to the Poor Law Commissioners in Dublin that we send on to the Assistant Commissioners for the Unions, and never have them again, if it is not necessary that they should return them.

364. Do you keep a Record of your Proceedings?

I should say that would be on the Record.

365. Where is the Record?

I have it here before me (*the Witness referred to the Register*). I find this Register does not go further than June; it terminates with June. It was sent here for quite another Object; it is merely an accidental Circumstance its being here from Dublin. The Register for the subsequent Period is in Dublin.

366. Have you sent for the subsequent Register?

I shall send for it.

367. This Question arose the other Day; have you sent for it in consequence?

We have not yet sent for any other Register.

368. Have you a Copy of the Answer sent to Henry Pedder on the 29th of July?

Now I beg to ask does that Answer relate to the Valuation?

369. It does?

I have not got a Copy of it. I can account for how this is now.

370. Is it in the Return?

It is not.

371. I hold in my Hand a Letter, dated Poor Law Commission Office, Dublin, 29th July 1839, " Sir, Referring to your Communication of the 25th instant, I am directed to state for your Information that the Commissioners have requested the Guardians for Clonmel Union to appoint a professional Valuator, Mr. Wall not being, in the Commissioners Estimation, duly qualified for the Office. I am, Sir, your obedient Servant, W. Stanley, Assistant Secretary. To Henry Pedder, Esquire, Oakville, Clonmel?"

Allow me to explain. This Return is made in pursuance of an Order simply for, "Correspondence which has taken place between the Poor Law Commissioners and Boards of Guardians in Cases where the Commissioners have objected or declined to confirm the Election of Valuators for the Union made by the latter." I apprehend the Return ought not to contain a Letter of Mr. Pedder individually, or a Letter to him as an Individual; it contains a Letter from him, with a Protest signed by Seven Guardians, but it contains no more from Mr. Pedder.

372. Mr. Pedder's Letter does contain a great deal more?

It is not a Letter within the Terms of this Order, I conceive.

373. The Order is for any Correspondence which has taken place between the Poor Law Commissioners and Boards of Guardians in Cases where the Commissioners have objected or declined to confirm the Election of Valuators for the Union made by the latter; those Gentlemen were all either Justices

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of the Peace or Members of the Board of Guardians. Mr. Pedder was a Member of the Board of Guardians at the Time?

We did not consider that a Correspondence with the Board of Guardians. The Circumstance of its being in Mr. Pedder's Possession would show it was not a Letter to the Board of Guardians.

374. Mr. Pedder forwarded to you a Protest of Members of the Board of Guardians?

Yes; and I have his Letter here,—the Protest of Seven Guardians. That seems to be a Portion, and a very respectable Portion of the Board; but we should not put in a Letter coming from him or going to him.

375. What Answer was sent to that Protest of the Board of Guardians?

I will read it. "The Poor Law Commissioners have to acknowledge the Receipt of your Letter of the 27th instant, with a Protest against the Employment of Mr. John Butler as a Valuator in the Clonmel Union, and they desire to state that Mr. Butler's Name has not yet been submitted to them, but that in no Case will their Sanction be given to the Employment of a Valuator who shall not propose reasonable Terms, and appear to be an efficient and proper Person for the Duties to be performed."

376. To whom is that addressed?

It is addressed to Mr. Pedder, as one of those Seven Guardians.

377. Then was not the other Letter to Mr. Pedder of exactly the same Character as that you have inserted?

Perhaps it might be; but that was simply from himself, not with the other Parties. The Answer to the Protest is sent to Mr. Pedder for his Information and that of the Parties uniting with him.

378. You considered Mr. Pedder as their Organ in that Instance?

Yes.

379. Then why did you not consider him their Organ in the other Instance?

He expressly describes himself as such in this Letter, but he might not have done so on the other Occasion.

380. Have you a Copy of the Letter addressed by Mr. Pedder to the Poor Law Commissioners on the 21st of August 1839?

May I beg to ask in what Return would that be?

381. It ought to be in the Return you have before you?

We have not a Letter in this from Mr. Pedder, dated 21st of August 1839.

382. A Letter inclosing a Protest from Mr. Smith, a Magistrate, and others? No; we have not that Letter.

383. The Letter states, "Gentlemen, On behalf of the greater Portion of the respectable House and Land Owners as well as Rate-payers in this Town, I beg to inform you that it has been decided by a Portion of the Guardians who certainly command the Majority that Mr. P. Wall alone is to be the Valuator of the Town, for which he is just as competent as to be Lord Chancellor of Ireland; and we have again to request you will not sanction such an Appointment. There were only Thirteen Guardians assembled Yesterday; Four against the Appointment, and Nine for it. You will perceive, on reference to the Minutes, that only One ex officio was in attendance, therefore the Protest could not be signed by more. Referring to your Communication, No. 3198, of 29th ultimo, we have every Reliance you will not confirm this Appointment in the Teeth and Defiance of your Regulations and Recommendations. I have not a Doubt but Four Fifths of the Rate-payers would be dissatisfied at it if confirmed, and that the Union will be put to tremendous Expense in Appeals if such persisted in. May I beg the Favour of an early Reply as to the Commissioners Determination." Inclosing a Protest to the above Effect?

I do not see that in this Return; it is a Part of the Correspondence that was omitted by Oversight, because the Commissioners decided on the 22d of August 1839 that they would not sanction the Appointment of Mr. Wall, and they required the Board of Guardians to proceed to the Election of a Professional Person.

384. Did

384. Did you put into the Return that Letter of the 22d of August 1839?  
I have a Letter to that Effect here; it is on the Top of Page 3., addressed to the Clerk of the Guardians of the Clonmel Union.

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385. But you have not inserted the Letter signed by yourself to this Effect, in reply to Mr. Pedder's Letter and the Protest of others?

No; it has been overlooked. I suppose it was thought sufficient to put in that addressed to the Board of Guardians, which is tantamount to it.

386. What is the Title of that Return you hold in your Hand?

"Correspondence which has taken place between the Poor Law Commissioners and Boards of Guardians in Cases where the Commissioners have objected or declined to confirm the Election of Valutors for the Union made by the latter."

387. You conceive the Protest of Mr. Pedder as a Magistrate would not come within the Words of that Return?

I should say so, unless it came from them as a Board of Guardians.

388. Supposing Mr. Pedder, and others of those Protesters, were Members of the Board of Guardians, which they were, were you not by that Order entitled to have sent such Protest and Letter here?

We do not consider the Correspondence of the Board of Guardians any other than the Correspondence of the Board passing through their Officer.

389. If any Part of the Board of Guardians protest against the Proceedings of the remaining Portion of the Board of Guardians, you do not consider that their Views are to be returned to this House, though you have their Letter?

The Commissioners acted in accordance with their Wishes. I should explain the Matter in this Way: I perceive that the First Paragraph of the Letter to the Clerk of the Guardians' says, "The Poor Law Commissioners have to acknowledge the Receipt of a Copy of the Minutes of Proceedings at a Meeting of Guardians for Clonmel Union, by which it appears that a Contract has been made with Mr. Patrick Wall." The Protest of the Guardians to be noticed by the Commissioners at all as coming from any Portion of the Board should be recognized by a Minute of the Board. Here is a Recognition of the Protest upon these Minutes, and in consequence of the Protest—it must have been in consequence of the Protest—for it could not have been in consequence of the Vote in favour of Mr. Wall, they proceed to say, they will not sanction the Appointment of Mr. Wall.

390. They acted on the Protest of the Minority of the Guardians?

They did.

391. Then why did you not send this Protest of the Minority of the Guardians?

The Letter is addressed properly to the corresponding Officer of the Board of Guardians, to whom we must, of course, address all the Letters.

392. Why did you not send the Protest on which this very Letter of the 22d of August is founded; it is on that Protest of the Minority of the Board of Guardians that that Letter is founded, and the Appointment of Mr. Wall cancelled?

We have here a Protest, dated the 25th of July 1839.—"Moved by Mr. Pedder, seconded by Mr. Riall, That the Protest of Five Guardians against the Appointment of Mr. Patrick Wall as Valuator for Clonmel be entered on the Minute Book. 'We, the undersigned Guardians of the Clonmel Union do protest against the Appointment of Mr. Patrick Wall as Valuator for the Town of Clonmel, feeling confident that he is not, either by Profession or Practice, at all capable,' and so on.

393. That is the Protest to which you conceive the Reply of the Commissioners was addressed?

It is.

394. Mr. Pedder's Letter enclosing the Protest is dated the 21st of August?

I see but One Protest against Mr. Wall's Appointment, and upon that  
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395. Was not Mr. Wall re-elected by that Board of Guardians, in spite of the Determination of the Poor Law Commissioners that he should not be the Valuator?

There are Two Letters from the Commissioners stating that they could not sanction the Appointment of Mr. Wall, one on the 5th of August, and the other on the 22d, so that I presume there was a Re-election; but that I apprehend was before the 22d.

396. The Letter of Mr. Pedder of the 21st of August has Reference to the Re-election, therefore that Protest should have been entered on the Return made to this House?

Probably that was not entered on the Minutes. I see the only Protest I have here was entered on the Minutes on the Motion of Mr. Pedder, seconded by Mr. Riall.

397. There were Two Protests, One against the first Election of Wall, and a Second of the 21st of August against the Second Election of Wall?

Probably it was not entered on the Minutes.

398. On what Minutes?

On the Minutes of the Board of Guardians. The Letter of the Commissioners of the 22d of August does not refer to a Protest, but says, "It appears by the Minutes of Proceedings at a Meeting of Guardians for the Clonmel Union that a Contract has been made with Mr. Patrick Wall;" a Contract actually made with him "to value the rateable Property in the Town of Clonmel." It is probable that the Majority of the Board of Guardians refused to let the Protest be put upon the Minutes; that is not uncommon.

399. Then, the Protest being sent up to the Poor Law Commissioners in Dublin, you have not returned it in this Return?

It is from Individuals; it would not fall within the strict Terms of the Return.

400. Although it is signed by Members of the Board of Guardians?

If it is not a Correspondence with the Board of Guardians the Board of Guardians would be quite a distinct Body; a Member of a Board of Guardians cannot be considered as the Board of Guardians.

401. Although a Portion protest against the Decision of the other Portion, you do not consider that a Part of the Correspondence to be returned?

I cannot say precisely the Reason why it was not included.

402. Who told you not to include that?

No one. If the Protest had been brought to me, and I had seen it was entered on the Minutes of the Guardians, it would have been inserted here.

403. After Mr. Wall was disallowed as Valuator, was not a Mr. O'Brien elected?

I think we have a Letter on the Subject.

404. What does that state?

"The Poor Law Commissioners have had before them the Minutes of Proceedings at a Meeting of Guardians for Clonmel Union held on the 17th instant, September 1839, including a Resolution passed by a Majority of One in favour of the Appointment of Mr. Thomas O'Brien of Ballyporeen, to value the rateable Property in the Town of Clonmel, against which Appointment several of the Guardians have protested, on the Ground of Mr. O'Brien's not being a Professional Man, or at all capable of completing the Valuation to the Satisfaction of the Rate-payers, and having been already appointed a Valuator for the Cashel Union."

405. Have you a Copy of the Protest signed by the Members of the Board of Guardians against the Appointment of Mr. O'Brien, stating that he was a Nephew

Nephew of Mr. Butler, and that Mr. Wall, who had just been disallowed, was the Brother-in-Law?

We have not had sent to us any Minutes of the Board of Guardians on the Subject, except those of the 25th of July relative to Mr. Wall, and that Protest. We have not the Proceedings of the Guardians relative to Mr. O'Brien's Appointment.

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406. Have you not a Copy of that Protest?

We have it recited in the Letter.

407. Two Lines of it only?

The Grounds of the Protest are quoted. "On the Ground of Mr. O'Brien's not being"—then we quote the Grounds—"a Professional Man, or at all capable of completing the Valuation to the Satisfaction of the Rate-payers, and having been already appointed a Valuator for the Cashel Union."

408. Why was not the Protest itself given, stating various other Circumstances and Facts?

I cannot say; the Commissioners appear to have acted upon that.

409. Then it is not a true Return?

There is no intentional Omission in it; I shall very speedily supply that.

410. It would have appeared rather extraordinary that this Board of Guardians should first elect the Returning Officer as Valuator, then, when he was disallowed, return his Brother-in-Law as Valuator, and when he was disallowed return his Nephew as Valuator; would not that appear extraordinary?

I think it would appear extraordinary.

411. Why were not all those Protests against those Circumstances, which appear to be so material, placed on this Return?

I recollect that this Return was moved for by a Member of the Government, for the Purpose of showing that the Commissioners had upon several Occasions opposed the Election of improper Persons to be Valuators; it was not moved for so much to show what Boards of Guardians thought upon the Subject as what the Commissioners had done in the Matter.

412. How could you tell what the Objects of the Mover were?

I recollect all the Circumstances of its having been moved for.

413. Who told you of the Circumstances?

It was I who suggested that the Return should be moved for.

414. Then why did not you make a true Return, when you were the Person who proposed it?

I proposed it merely with the view of showing that the Commissioners had resisted Boards of Guardians in appointing Men to be Valuators that the respectable Members of the Board of Guardians were hostile to.

415. You merely selected such Things as you yourself thought fit?

I have given all the Letters from the Poor Law Commissioners upon the Subject. I have not copied all the Minutes; but that was quite unintentional. I might yet have them brought; but really we did not consider the Minutes of the Boards of Guardians as actual Correspondence with the Commissioners. We consider a Letter coming from the Clerk of the Union the Correspondence of the Board, but not their Minutes, because they are not sent to us in that Shape. Whenever a Question arises that the Guardians want the Commissioners Decision on, they generally require that their Clerk shall send a Copy of their Minute to the Poor Law Commissioners, and take the Opinion of the Commissioners upon it, or request their Sanction to it. We do not call the Proceedings of the Guardians Correspondence, in the ordinary Sense of the Word,—the bare Minutes of Proceedings.

416. Notwithstanding that Correspondence consists of Protests from a certain Number of Guardians, both elective and ex officio?

We have the Protest which Mr. Pedder sent us from the Board; then we have a second Protest; but I suppose it was not considered that all fell within the exact Terms of Correspondence. But I will undertake to amend the Return, if your Lordships will permit.

(412.)

417. To

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417. To whom did you make the Suggestion to move for this Return?  
To Mr. Nicholls.

418. Did Mr. Nicholls suggest what Selection should be made from the Papers?

I think Mr. Nicholls was in London at this Time; he was at least in London when this was ordered; and I wrote to him that it would be important for the Commissioners to show what they had done in resisting the Appointment of improper Persons to be Valuators.

419. Was there any Correspondence or any Communication between Mr. O'Donoghue, as to the Investigation on the Charges against Mr. Butler?

I cannot recollect. I recollect Mr. O'Donoghue was opposed to the Appointment of Mr. Butler; as well as I remember, he opposed it.

420. What was the Date of your Appointment as Assistant Secretary?  
August 1838.

421. Was that when the Commission first came into operation?  
Yes.

422. Can you state from Recollection the Number of Letters you received each Day in the Months of February, March, April, and May, in the first Year of the Operation of the Poor Law?

The Number of Letters would vary from Ten to Twenty, and sometimes more. Our present Correspondence sometimes goes to Sixty Letters in a Day.

423. What was your Establishment of Clerks at that Time?

I took over with me from London One Clerk, and when I got to Ireland I was supplied with another Clerk; a Boy, merely to copy. For some Time we continued with those Two Clerks; then we were supplied with a Third Clerk. I cannot recollect exactly when the Establishment was further extended.

424. What is it at present?  
I think about Ten Clerks.

425. In point of fact was the Pressure of Business on the Commission very great at the Time referred to?

From the Time we commenced in Ireland the Pressure has been excessive upon us; so much so that we have no Relaxation even on the Sundays; not the Clerks, but the Principals, have been engaged on Sundays, and in the Evenings and Mornings as well as during the Day. It is easy to explain how these Inaccuracies may have arisen in the early Formation of an Office where there is such a Mass of Correspondence constantly pressing in every Day, employing all the Time we have for current Business; so that when we get Orders for Returns they can be prepared only by employing the Clerks up to near Midnight. When I left Dublin the Clerks were working up to nearly Twelve o'Clock at Night, all on extra Duty.

426. Have you any Correspondence between Mr. O'Donoghue, the Assistant Commissioners, and the Poor Law Commissioners with regard to the original Appointment of Mr. Butler, not as Valuator, but as Returning Officer?

We have a Letter from Mr. O'Donoghue, on an Investigation made by him into the Conduct of Mr. Butler after the First Election, in which he speaks, I think, of Mr. Butler's Conduct generally.

427. The Question refers to the Period previous to his Appointment as Returning Officer?

Mr. O'Donoghue was not then the Assistant Commissioner for the Union.

428. Had you any Correspondence with him on that Subject, notwithstanding that he was not Assistant Commissioner for the Union?

I do not think we had; I should say that there was none.

429. You are quite sure there is not any Correspondence on the Subject?

I cannot be quite sure, but it is not likely to be the Case.

430. If it was the Case you think that would have been included in the last Return to this House?

I think so. I wrote to Mr. O'Donoghue to send me, as soon as the last  
Return

Return was ordered, such Papers as he had relative to Mr. Butler, and he sent me those Papers which have been included in the Return.

*Mr. W. Stanley.*

18th March 1841.

431. What Papers?

The Paper which Mr. Phelan addressed to Mr. Hancock, and the Letter of Mr. Butler addressed to Mr. Phelan.

432. How came Mr. O'Donoghue, if he was not Assistant Commissioner of the Union, to have that Correspondence?

The Correspondence of the Union is always transferred to the Assistant Commissioner when he is put in charge; when an Assistant Commissioner is removed to another District he hands over to his Successor all the official Correspondence in his Possession.

434. Will you look for any Correspondence between Mr. O'Donoghue and the Board of Commissioners previous to the Appointment of Mr. Butler, and let that be presented to the House?

I will.

The Witness is directed to withdraw.

The Witness is again called in.

434. The House has called for a Return of the Correspondence respecting the Naas Union; when is the House likely to have that Correspondence before it?

The Moment I am discharged I shall return to prepare it. We have had some of the Papers sent to us from Dublin To-day, and I have sent Directions by this Night's Post to have the Matter prepared for making out the Return.

435. Have you received any Complaints from the Clerk of the Board of Guardians, lately appointed to the Clonmel Union, with respect to Mr. Butler's refusing to deliver up the Voting Papers for the Two previous Elections for the Board of Guardians?

We have a Letter from the Clerk, I think, stating that Mr. Butler would not give up the Papers until he had received an official Direction from the Commissioners to that Effect; I think the Landlords Statements, or something of that Kind; and that official Direction, to the best of my Knowledge, was sent Yesterday. Before I withdraw, may I be permitted to say that I was directed to produce the Papers to show where Mr. Hawley was on the 15th and 16th of March 1839. I find that on the 15th of March he was at Cashel, and that on the 16th he was in Tipperary.

436. Where was he on the 14th?

On the 14th he travelled from Limerick to Cashel, and transacted Business with the Returning Officer of the Cashel Union.

437. Where was he on the 13th?

In Limerick, employed in Correspondence.

438. You cannot say whether that Letter of the 14th was addressed to him at Limerick?

The Reference made to Mr. Nicholls for the 14th being at Cashel, I apprehend it would be addressed to him at Cashel, and that he will have received it at Cashel.

439. In the County of Tipperary there are Three Unions, called the Clogheen, the Tipperary, and the Nenagh Unions?

Yes.

440. Did not the Commissioners in those Three Unions appoint the High Constable Returning Officer?

They did; Mr. Bradshaw, Mr. Faulkner, and Mr. Flaherty.

441. In the Clonmel and in the Cashel Unions they did not appoint the High Constables of the Baronies?

They did not.

(41.2.)

M

442. Clonmel



Mr. W. Stanley.  
19th March 1841.

442. Clonmel and Cashel return Members to Parliament, do they not? Clonmel does, and I believe Cashel does.

443. Surely you must know whether Cashel does or not? I believe it does, but I really am not sure.

The Witness was directed to withdraw.

Mr. W. Wodsworth.

Mr. WILLIAM WODSWORTH is called in ; and having been sworn, is examined as follows :

444. YOU are a Clerk in the Poor Law Commission Office in Dublin? I am.

445. Were you employed in the Office in the Month of February 1839? I was.

446. Is that Letter your Writing? (*A Letter being shown to the Witness.*) It is not.

447. Is there a Clerk of the Name of Armstrong in the Office? The Clerk who copied that Letter was dismissed from the Office in the Month of December 1839; Mr. Armstrong did not copy that Letter.

448. Are you the Clerk that copied into the Minutes or the Register Book the Draft of the Letter from which the Letter to Mr. Fennell, of which a Return has been made to this House, was written?

I am not. I drafted the Letter which was written to Mr. Fennell.

449. Did you make a Copy of this Return to the House in the Month of May 1840?

I did not.

450. Who did?

Mr. Armstrong, I believe.

451. Mr. Armstrong, you think, was the Clerk who copied the Return to this House in May 1840?

I would not state positively, unless I saw the Handwriting.

452. In May 1840 you did not make out the Return sent to this House?

I did not.

453. How long have you been in the Office?

Five Years.

454. Do they conduct the Business in Ireland in the same Form and the same Manner in which they do in England?

In the same Form very nearly.

455. In what respects do they differ?

The only Difference is in One Column in the Register, which is kept in another Book, which answers the same Purpose.

456. Does that Column refer to the Dates of the Letters received?

It does.

457. Is it the Custom in England to put the Answers to Letters or Correspondence on the Book?

It is the Custom with some of the Letters; and it is the Custom with some of the Letters in Ireland.

458. In England usually the Letters and the Answers are on different Sheets of Paper, are they not?

They frequently are so, but not always.

459. Are you to be understood that in England there is no Book kept in which the Copies of Letters are entered?

Copies of Letters are kept in Ireland; that is to say, the Draft of the Letter, which is the Minute, with a Heading showing the general Subject of the Letter, and then a Minute copying the Answer to the Inquiry, which is the

Draft

Draft of the Letter ; sometimes a fair Draft of the whole Minute is written out, and retained in the Office, pinned to the Letter, as is the Practice in England.

*Mr. W. Wadsworth.*

18th March 1841.

460. Is there any Information with reference to the Proceedings of the Branch of the Commission in Ireland transmitted to the Board which sits in London ?

Yes, there is.

461. In what Shape ?

It is a Minute of the most important Subjects, which is forwarded occasionally Week by Week.

462. A detailed Account of what has passed ?

Yes ; the Letters of the most important Nature are given at full Length, and an Abstract is given of those which are not of so important a Nature.

463. Do you recollect the Receipt of a Letter from Mr. Fennell, dated the 15th of February 1839 ?

I am aware that there was such a Letter received.

464. Take that Return into your Hand. Look at the Letter of the 18th of February, directed to Mr. Fennell ?

I have read it.

465. Do you recollect Mr. Fennell's Letter of the 15th of February 1839 ?

I cannot recollect the Receipt of a particular Letter ; but the Books, and the State of the Business generally, show it was received on Saturday the 16th.

466. What does W. W. mean placed at the Bottom of the Letter written to Mr. Fennell on the 19th of February ?

The Letter was read over, and found to be correct, according to the Spelling and general Sense.

467. What does W. W. mean ?

Those Letters are my Initials.

468. Though you did not write the Letter to Mr. Fennell on the 19th of February, you compared it ?

I did.

469. What did you compare this Letter, written to Mr. Fennell on the 19th February, bearing your Initials, with ?

It was compared with the original Draft as it stood previous to its being taken with the fair Copy to be signed by Mr. Stanley.

470. Was it in exact Accordance with the Original from which you made it ?

It was at that Period,—at that Time of the Day.

471. You copied it exactly from the Original as it stood ?

As it stood at that Time of the Day.

472. You compared it ?

I did, previous to taking it down to be signed by Mr. Stanley.

473. In whose Handwriting is this Letter ?

The Handwriting of Mr. Crawford.

474. Who wrote the Draft ?

I did.

475. Who directed you to write the Draft ?

I could not state upon Recollection from whom I received the Direction to write the Draft as it stands at present ; but I must have received some Direction to alter it from the Minute of Mr. Erle.

476. You think you received a Direction to alter it from the Minute of Mr. Erle ?

I must have received some Direction to have altered it from the Minute of Mr. Erle.

477. You wrote the original Draft ?

I did.

(41.2.)

478. From

*Mr. W. Wodsworth.*  
18th March 1841.

478. From whom did you receive Directions to write the original Draft?  
I cannot state.

479. Had you any Directions at all?  
I could not have written it without.

480. Who was the Commissioner in the Office at the Time?  
Mr. Erle was the Assistant Commissioner, in the Absence of Mr. Nicholls.

481. Was Mr. Phelan there at the Time?  
I dare say that he was in Dublin at that Period; but I cannot say, from Recollection, whether he was in the Office or not.

482. Are you sure you did not receive Directions from Mr. Phelan to write that Draft?  
It is impossible for me to state from whom I received Directions at this Time.

483. Were you yourself aware whether the Facts stated in that Draft were correct?

I must have been aware, from Conversation I had heard in the Office, that the Appointment had been conferred upon Mr. Butler, and that he would be the Returning Officer.

484. Were you aware that the Assistant Commissioners had recommended the Appointment to be conferred upon him?

The official Recommendation of the Two Assistant Commissioners arrived on the Monday; the Letter was drafted to Mr. Fennell originally on the Monday Morning, according to Mr. Erle's first Direction, but upon its being known that Mr. Butler was to be the Returning Officer, it was altered, informing Mr. Fennell that his Application was too late, as the Appointment had been conferred on another Person.

485. Are you aware whether you were directed to write to Mr. Fennell, stating that his Letter had not arrived at the Office until after the Appointment of Mr. Butler was made?

I must have been aware that it was correct at the Time, or I should have mentioned it if it had not been so.

486. Did you receive Mr. Fennell's Letter on the 16th of February?  
The Books in the Office say it was received on the 16th.

487. Mr. Hawley and Mr. Hancock's Recommendation was not written till the 16th, and of course did not arrive till the 18th; therefore this Application had not arrived at the Office before Mr. Hawley and Mr. Hancock's Recommendation?

The pro formâ Report, authorizing the Preparation of the Letter apprising Mr. Butler that the Appointment would be made, did not arrive till Monday or Sunday's Mail, but the Knowledge that Mr. Butler was to be the Returning Officer was in the Office previous to the Arrival of that pro formâ Report.

488. From Mr. Hawley and Mr. Hancock?  
Yes.

489. What Knowledge had you in the Office that such Appointment was made?

I cannot state; I have no documentary Evidence to show, and I could not state on Recollection.

490. Did Mr. Phelan state in the Office that the Situation of Returning Officer would be conferred upon Mr. Butler previously?

I cannot state at this Distance of Time.

491. There must have been in the Office, either by Arrangement in Conversation or by writing, some Document, or some Minute of the Board, that Mr. Butler was to be the Returning Officer, previous to the 18th of February?

There must have been a Knowledge in the Office that he was to be the Returning Officer.

492. From

492. From whom could that Knowledge have been obtained, except from the Assistant Commissioners of the Union?

Mr. W. Wolsworth.  
18th March 1841.

I cannot state that; it is not my Duty to attend to the Attainment of Knowledge, but I write according to what I am informed.

493. Did you make that Statement in the Letter from your own Knowledge, or were you ordered so to do, with regard to Mr. Fennell's Application not having arrived at the Office previous to Messrs. Hawley and Hancock's Letter?

I must have had verbal Instructions to that Effect.

494. But you do not know who gave them to you?  
I cannot state at this Distance of Time.

495. You stated, in answer to a Question put not long since, that you must have received some verbal Instructions which induced you to alter the Letter from the Minute you had received from Mr. Erle?

I did.

496. Is this the Draft of that Letter, "Sir, In reference to your Letter of the 15th instant, I am directed to inform you that your Application to be appointed Returning Officer for the Clonmel Union did not arrive at this Office until after the Assistant Commissioners for the Union had recommended the Appointment to be conferred on another."

[The Letter was shown to the Witness.]

That is my Handwriting.

497. Read the Original which you wrote?

"In reference to your Letter of the 15th instant, I am directed to inform you that your Application to be appointed Returning Officer for the Clonmel Union did not arrive at this Office until after the Appointment had been made in favour of another Person." That was the original Draft.

498. That Alteration was made in your Presence?

Mr. Stanley, on the Letter being brought to him to be signed, said it would be better to put the Answer "until after the Appointment had been conferred upon another Person," and he gave me Directions to get the fair Copy altered in the Handwriting of the Person who wrote it.

499. How can you account for the Letter actually sent having been in the Words in which you first drafted it?

I can account for it in no other Way but that my Directions to have it altered were not carried into effect.

500. Was the Alteration made at the Time in your Presence as it appears now in that Paper?

I should say it was, as Mr. Stanley's Practice was to alter the Drafts in the Letters brought before him to be signed, giving the fair Copy into the Hands of the Person who had written them to make the Alteration.

501. How came the Person who was directed to make the Alteration not to make the Alteration Mr. Stanley had directed in it?

I cannot say.

502. How came he to write that according to the original Draft, and not the Alteration?

The fair Copy of the Letter was completed and signed, and taken up to him to alter, which he omitted to do; and he despatched the Letter without making the Alteration which he was directed to make.

503. There are other Words afterwards introduced. Was that Alteration likewise made in your Presence; that mentioning the Recommendation of the Commissioners?

I am not well cognizant of the Time when that Alteration was made.

504. You have no Recollection of ever having seen it so before?

I do not recollect having seen it on that Paper before.

(41.2.)

N

505. You

*Mr. W. Wodsworth.*  
18th March 1841.

505. You are quite sure it was not on the Paper when you, with Mr. Stanley, had the Draft corrected?

I should think it was not; but I cannot state from Recollection.

506. On that Paper which is in your Hands now there appears a Memorandum of Mr. Erle, or at least signed R. E., giving Direction, on the 16th of February, for a Letter of a different Tenor; was the Direction afterwards revoked by Mr. Erle?

I cannot say that he revoked it himself, but it was revoked, or the Letter would have been written.

507. Why was not the Letter written on the 16th, in obedience to that Instruction?

The Letter, in all probability, was sent up Stairs to go through the usual Course late in the Day on Saturday, and was not drafted till the Monday Morning; it was then given to the Copyist, and I cannot say at what Date he copied it.

508. What is Mr. Erle's Observation?

"Acknowledge, and acquaint, that his Application will be considered when the Time arrives for selecting a Returning Officer for the Clonmel Union. Forward to Mr. Hawley for his Information."

509. Was any Letter forwarded to Mr. Hawley for his Information?

I should say this was not forwarded to Mr. Hawley for his Information, as the Returning Officer had been appointed, or the Recommendation had been made in his Favour, in which Case that Direction would not have been required.

510. It was on the 18th of February you drafted the Answer to Mr. Fennell's Letter, was not it?

Such is the Date upon it.

511. How do you account for the Letter actually sent to Mr. Fennell bearing Date the 19th?

It must have lain in the Copyist's Basket until that Date.

512. That Circumstance would not convert the 18th into the 19th?

He would put the Date of the Day upon which he was copying it.

513. Would the Entry of the Date be the 18th or the 19th?

It would be entered in the Register according to the Date which stood on the Draft.

514. If it was dated on the 19th it must have been taken to Mr. Stanley for Signature on the 19th?

I presume it was.

515. Is it usual in the Office to state as a Fact that which is not at the Time a Fact, but only anticipated as likely to occur? You state in this Letter, that the Recommendation has been made by the Assistant Commissioners; but at the Time it appears that no Commissioners Recommendation had been made, but it was only anticipated in the Office that it would be made; is that a usual Course of Proceeding?

If it would satisfy the Applicant that it was useless for him to waste his Interest in seeking the Appointment, the Commissioners possessing Knowledge of the Fact that he would not be appointed, I think that such a Course might be adopted.

516. Is not it of more Importance to satisfy the Truth of the Case?

I cannot state as to that.

517. You state that the Person who copied the Letter is no longer employed in the Office?

He is not; he was dismissed for Irregularity.

518. He was dismissed some Months after this?

In December of the same Year.

519. You conducted the Business as Corresponding Clerk at this Time?

Yes, I did.

520. Instances





3.

**Poor Law Commission, Ireland.**

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**MINUTES OF EVIDENCE**

TAKEN

BEFORE THE HOUSE OF LORDS

RELATIVE TO

**CERTAIN RETURNS**

MADE BY THE POOR LAW COMMISSIONERS TO ORDERS OF THE HOUSE

RESPECTING

**The APPOINTMENT of JOHN BUTLER to the SITUATION of  
RETURNING OFFICER of the CLONMEL UNION.**

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18th March 1841.

GEORGE NICHOLLS, Esquire - - page 55

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*Die Veneris, 19° Martii 1841.*

**T**HE Order of the Day being read for the Attendance of George Nicholls, Esquire, One of the Poor Law Commissioners ;—

Evidence re-  
specting certain  
Returns made by  
the Poor Law  
Commissioners.

**GEORGE NICHOLLS**, Esquire is called in ; and having been sworn, is examined as follows :

19th March 1841.

524. WERE you in Dublin in the Month of March 1839 ?  
No, I was not.

525. It has been so stated by Mr. Stanley in his Evidence ?  
I beg Pardon ; I returned to Dublin the 12th of March 1839.

526. When you arrived in Dublin did you make any Inquiries into the Facts concerning the Appointment of John Butler to be Returning Officer to the Clonmel Union ?

I have no Recollection of the Circumstance ; I have no Doubt of it. When I returned to Dublin there was a considerable Amount of Business to be attended to. If that constituted a Portion of the Business, I, of course, inquired into that.

527. Do you happen to recollect seeing any Correspondence that took place between Mr. Bagwell and the Commissioners previous to your Arrival on the 12th of March ?

I have no distinct Recollection of the Correspondence at this Moment. I must have seen the Correspondence as I see all the Correspondence.

528. Will you please to turn to Letter No. 7. in the Return to this House in the Month of May ? (*A Copy of the Return being handed to the Witness.*)  
No. 7. is the Letter from Mr. Bagwell addressed to the Commissioners.

529. Stating the Unfitness, in his Opinion, for certain Reasons, of Mr. Butler to be appointed Returning Officer ?  
Yes.

530. Did you see that Letter when you were in Dublin at that Period ?  
I cannot say, amongst the vast Number of Letters that I received ; but I have no Doubt I must have seen the Letter, and must have given Directions upon it. The Directions that were given of course either the Minutes or the Answer sent will explain.

531. Will you refer to the Minutes of the original Letter ?  
I have no Minutes ; the Minutes are not in my Charge.

532. Has Mr. Stanley taken them back to Dublin ?  
Every Document was taken back. It was necessary that they should be taken back, to make out the Returns now ordered by the House. If it would be convenient to your Lordships, I will state the Course of Proceeding that is invariably adopted on every Occasion similar to this. On the Receipt of any Letter at the Office, if it refers to any Transaction in a Union, the Letter is referred to the Assistant Commissioner in charge of that Union to report. The Reference to the Assistant Commissioner is always made either by myself in my own Writing, or else it is a Minute made by the Secretary, which I sign. The Purport of it invariably is, to direct the Assistant Commissioner to give me his Report upon the Letter ; it is generally given on the Back of the Letter. The Letter is then returned to the Office ; it is then again brought to me, as the resident Commissioner in Dublin. When I have the Letter before me, and the Minute or the Report or Information of the Assistant Commissioner, I then am able to  
(41.3.) O 2 make

G. Nicholls, Esq.  
19th March 1841.

make up my Mind as to the Kind of Answer to be given to the Letter. I then either direct the Answer to be written, or, as is frequently the Case, if it is a Matter of any Importance, I write the Draft Answer myself. The Answer so directed, or so written, is sent to the Party writing the Letter. An Inquiry of that Description I have Reason to know was made in the Case of this Letter of Mr. Bagwell's, and an Answer was given upon the Information so obtained. With respect to myself, of course I cannot be in every Union; I must hold the Assistant Commissioner in charge of the Union answerable for the Kind of Information that he gives, and for the Report that he makes upon every Case. If the Inquiry be as to the Fitness of any Individual, as was the Case in this Instance, for the Situation of Returning Officer, the Assistant Commissioner makes his Report upon the Case, and he is answerable for that Report. On that Report of the Commissioners the Appointment is made in London; my Colleagues in London act upon my Recommendation; the Transaction is then complete. And that is the Course invariably pursued with every Letter that has immediate Reference to any Business or any Transaction in a Union. If a Letter received at the Office in Dublin has not immediate Reference to a Transaction that passes in a Union, if we possess Information at the Office to enable us to deal with that Letter immediately,—which is frequently the Case where the Question involves a Matter of Principle, that we are enabled to deal with the Case immediately at the Office,—the Answer is drafted at the Office either by myself or by the Secretary with my Concurrence, and is sent directly from the Office. But in that Case, if it has reference to Proceedings in any Union, or if it conveys Information that it is important for the Assistant Commissioner to be possessed of, a Copy of the Letter is sent either to the Assistant Commissioner immediately interested, or to all the Assistant Commissioners for their Information.

533. In this Case of Mr. Bagwell's Letter which you have before you, Mr. Stanley has informed the House that he wrote upon the Back of it "for further Inquiries," which further Inquiries were directed to Mr. Hawley, and that Mr. Hawley returned an Answer to the Letter upon the 16th of March; please to refer to Mr. Hawley's Letter of the 16th of March, and to read that Letter?

"Mr. Butler is Nephew of the Roman Catholic Archbishop, Dr. Slattery, and has been strongly recommended to us; he is a highly respectable Person, and his Unfitness for the Office, complained of by Mr. Bagwell, can only have reference to his Connexion with the Prelate above mentioned. I believe that his Appointment will give general Satisfaction in Clonmel.

(Signed) "W. H. T. HAWLEY."

534. When that Letter was received at the Office, in reply to the Inquiries made in consequence of Mr. Bagwell's Letter, did you see it?

Certainly; I must have seen it. I of course have no immediate Recollection now of seeing it, it being Two Years ago; but I must have seen it in the course of Business, and given Directions upon it, and I have no Doubt that, on receiving this Letter from the Assistant Commissioner whose immediate Duty it was to inquire and report, I should have immediately acted upon it, holding him responsible for the Accuracy of his Information.

535. Did you make any further Inquiries of him when you received that Letter?

I presume not.

536. You observe that Mr. Bagwell's Letter does not give any precise Reasons; he merely states the general Unfitness of this Person for the Office, and solicits Inquiry?

From the Tenor of Mr. Bagwell's Letter I should not consider it myself necessary to do any thing more than refer the Matter to the Assistant Commissioner in the District. I may state, that in every Case of every single Appointment that is to be made there are so many Applications, so many Representations on each Side on the Subject, and most frequently the one neutralizing the other, that it is not from Statements from any Party that I have been able to rely; I can only depend upon the Assistant Commissioner on the Spot.

537. Have

537. Have you any Knowledge of the Situation in Life in which Mr. Bagwell is placed?

G. Nicholls, Esq.

19th March 1841.

I never saw Mr. Bagwell; my Impression is that Mr. Bagwell is a highly respectable Gentleman.

538. Are you at all aware of Mr. Bagwell's Line of Politics?

Not in the slightest Degree; I have no Notion whatever.

539. When that Letter was received in the Office, stating that that was Mr. Bagwell's chief Reason for objecting to Mr. Butler, did you conceive it necessary to make any further Inquiry to know whether that was Mr. Bagwell's Reason or not?

No, I did not; for this Reason, that looking at the Number of Unions which there are in Ireland, and the Amount of Business to be transacted, it is impossible that the Commissioner in Dublin can be cognizant of the Character of Parties in the Unions; he must rely upon the Discretion and Judgment and Activity and Tact of the Assistant Commissioner.

540. The Orders to Mr. Hawley were, that he was to make Inquiry?

Yes.

541. Do you think his Answer indicated that he had made Inquiry?

His Answer to me indicates that he had sufficiently satisfied himself either previously, or possibly at the Time, or even subsequently to his receiving the Reference; and that he stakes his Responsibility upon the Truth of his Report, as to the Propriety of the Appointment of Mr. Butler. If Fifty Letters had come to me subsequently, I should have referred them all to Mr. Hawley, for his Report upon them.

542. Was he not particularly desired to inquire with reference to that Letter of Mr. Bagwell's?

The Reference was made on the Back of Mr. Bagwell's Letter.

543. Does it appear on the Face of his Letter that he ever made any Inquiry at all with reference to the Nature of Mr. Bagwell's Objection?

He does not state distinctly in this Communication that he had made that Inquiry. These are short Notes. Having much to do, we must of Necessity write shortly. He states the Fact on his own Responsibility, that he knows Mr. Butler to be a fit Person for the Office, and that his Appointment would be highly popular, I think, in the Union.

544. From what you have since heard, do you believe that to be a just Representation which Mr. Hawley made to you?

I have no Hesitation in admitting that I think it is not one of the best Appointments that could be made, I will go further; After-wisdom is not always very valuable, but had I known at the Time what I have since known I should not have consented to appoint Mr. Butler. But I hope your Lordships will make some Allowance for a Person in my Position; we cannot be infallible.

545. The Question was whether you thought Mr. Hawley had made a just Representation. Have you ever inquired since of Mr. Hawley as to the Nature and Extent of the Inquiries which he made, or to whom he addressed those Inquiries?

I have had Communications,—not official Communications,—but Communications both by Letter and in Person, in which I have expressed to Mr. Hawley my Regret that he had not looked a little more closely into this Case; but Mr. Hawley could only judge by the Representations made to him. It was not, I think, a very fortunate Appointment.

546. Then are the House to understand, that when Mr. Hawley stated with respect to a Man who proves to have been an Insolvent, and of the Character of Mr. Butler, that the only Objection felt against the Man by Mr. Bagwell and others was that he was the Nephew of a Roman Catholic Prelate, you did not think the Matter deserving of Inquiry by Mr. Hawley?

I know Mr. Hawley's Character. There is not a Man of higher Integrity or Honour in Her Majesty's Dominions; and I am satisfied that he would be incapable of making a Statement that he was not convinced of the Truth of. His Position in Life is a Guarantee for that. He may have been misled, but his Statement was a bonâ fide Statement, I am sure.

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547. The

G. Nicholls, Esq.

19th March 1841.

547. The Question was, whether you did not think it incumbent on you to inquire from Mr. Hawley what was the Nature of the Inquiries he had made, and what had induced him to make the Representation he had made?

I have not addressed any specific Inquiry of that Kind to Mr. Hawley; it has not gone beyond what I have mentioned to your Lordships. When the Question was mooted as to the Fitness of Mr. Butler, particularly what was just now referred to, as to his Insolvency, that was a Matter of which I knew nothing. I had been told that he was insolvent from some Quarters.

548. Do you believe now that the Representation that he was a private Gentleman living in Clonmel, retired from Business, was a true Representation?

I have no Means of knowing the Fact.

549. Since these Inquiries have been entered upon have you had no Means of ascertaining a Fact with respect to which you must have expected to have been called upon for Information by this House?

I had no Means of ascertaining any thing as to Mr. Butler's private Circumstances I was told very recently that Mr. Butler was a respectable Person. I asked a Gentleman I met here whether he knew any thing of him, and he said he believed him to be a respectable Person.

550. The Question was, whether you had any Knowledge, either by yourself or through the Means of the Assistant Commissioner, as to the Character and Circumstances of Mr. Butler?

Nothing but what is stated in these Papers.

551. Was not that the Inquiry which you directed Mr. Hawley to make?

I think not. My Direction to Mr. Hawley was to inquire as to Mr. Butler's Fitness for the Situation of Returning Officer.

552. Do not you think that the Character and Circumstances of an Individual are an Element in the Judgment of his Fitness?

Clearly.

553. You consider yourself responsible for this Appointment, as the Resident Commissioner in Ireland?

I do, clearly.

554. If this Gentleman is an Insolvent, and if he is in other respects such as has been represented in the Evidence given before this House, is he, although the Nephew of an Archbishop, a fit Person to be a Returning Officer in the Union of Clonmel?

If Mr. Butler is insolvent, or has been insolvent, or if he is a decided political Partizan, I should certainly consider him unfit to be the Returning Officer for the Union; and I hope your Lordships will believe that if I had had any Idea that he was open to either of those Objections no Consideration in the World would have induced me to sanction his Appointment.

555. You were not in Dublin at the Period when the Correspondence upon this Subject commenced?

No, I was not.

556. You were absent?

I was.

557. Who was responsible for the Business of the Office when you were absent?

Mr. Erle.

558. Who is Mr. Erle?

An Assistant Commissioner.

559. Was there any body else?

And the Secretary; no other Person.

560. Is there a Mr. Phelan also in the Office?

Not in the Office. Mr. Phelan was then an Assistant Commissioner. He was appointed at that Time to act under Mr. Erle in the Dublin District, for the Purpose, partly, of assisting Mr. Erle, but mainly of acquainting himself

himself with the Duties of an Assistant Commissioner. He had nothing whatever to do in the Office.

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561. He had nothing to say to the Business of the Office ?

Nothing whatever. He may have gone to the Office for his Letters, but he had nothing whatever to do with the Business of the Office.

562. Then supposing it to be true that Mr. Phelan interfered in the Appointment of this Gentleman, and that he announced to the Secretary of the Office that the Appointment was conferred on Mr. Butler, will you state whether that was or was not an Irregularity in the Office ?

If that had taken place as stated in the Question it certainly would have been an Irregularity, but I cannot conceive that it could so have taken place.

563. Have you read the Evidence of Mr. Stanley ?

I have not read the Evidence ; but it is right that I should state that I was in the House, and heard Mr. Stanley's Evidence.

564. Did he not state that to have taken place ?

Mr. Stanley did ; at least he said something very similar.

565. Mr. Phelan is an Assistant Commissioner ?

He is.

566. Who appointed him ?

The Commissioners.

567. The Commissioners are responsible for that Appointment ?

Clearly they are.

568. What will happen if the Statement in the Evidence to which Reference has now been made should turn out to be true ?

I am here examined as an individual Member of a Commission, and of course I can only answer for myself ; but I have no Hesitation in saying, that if any Person holding Office under the Poor Law Commissioners is proved to have acted improperly, my Voice is against that Person, in the same Way as I hope the Voice of every Man would be against myself if I acted improperly.

569. You remember that up to this Moment you are responsible ?

I have a very deep Sense of my Responsibility, and do not shrink from it.

570. Are all those Conversations of Mr. Phelan, and all those Communications between you and Mr. Hawley, and between Mr. Hawley and Mr. Erle, entered upon the Record in Writing of the Proceedings of the Commissioners of Poor Laws, which the said Commissioners are required to keep by the Fourth Section of the Act of Parliament ?

Every Communication from every Individual having reference to any Act of the Commission, and every Interview of the Board with any Party on the Business of the Commission, is regularly entered on the Minutes of the Board, or else on the Registry of the Proceedings, to the best of my Knowledge and Belief. I am not answerable for the Entry of every Record, or for every Minute, or for the Entry of every Letter, but to the best of my Knowledge and Belief every Letter is there entered, and every Act of the Commission is recorded, and the Reasons and Grounds of that Act. If there has ever been any Omission it is altogether unintentional.

571. You say that you are not responsible for the keeping of this Record ; are you responsible for the Execution of the Act of Parliament ?

Certainly I am.

572. Does not that Clause contain Directions for the Conduct of the Commission most particular and in detail ?

That Clause contains most specific Directions for the Conduct of the Commission ; most important Directions.

573. Are you as a Commissioner not responsible for the Execution of the Details and Injunctions contained in that Clause ?

I was about to solicit Permission to correct that Answer. My Observation had

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had reference rather to the copying of the Minute, or to the copying from the rough Registers on to the fair Register,—that there might have been an unintentional Omission. I merely wished to claim Credit for the Rightness of the Intention, although the Entry might have been erroneous.

574. Either that Clause or a subsequent Clause points out that this Record is to be kept purposely for the Information of the Government and of Parliament whenever it shall be called for; now, is it not the Duty of the Commissioners to take care that that Record so ordered to be kept should be accurately kept, and should contain a specific Statement of all that passes, and of the Reasons for every Act of the Commissioners?

Clearly; and the Minutes and the Registry I take upon myself to say, to the best of my Belief, do distinctly contain a Record of every Act of the Commission, and the Reasons on which that Act is founded. There were Yesterday brought to your Lordships House several Volumes of the Minutes of the Board. I expected that some of those Minutes would have been read, and then the House would have seen that those Records have been carefully kept; for my own Part most anxiously kept, for I have a very deep Sense of the Importance of the Instructions contained in that Clause of the Act.

575. Do those Minutes contain Reports of those Communications between you and Mr. Hawley, upon the Subject of this Objection of Mr. Bagwell, and your Reference to Mr. Hawley, in consequence of his Report that Mr. Bagwell's Objection was solely that he happened to be the Nephew of a particular Person?

In the Minute of the Board which I saw Yesterday, with reference to this Letter of Mr. Bagwell's, there is expressly in the Minutes of the Board a Reference to every Communication that had taken place.

576. Have you got those here?

No; they were sent back to Dublin. There is not a single Act of the Commissioners which is not supported by the documentary Evidence required by the Fourth Section of the Poor Law Relief Act. The Register that was brought here was a fair Copy from our rough Registers. This took place in the Hurry of Business; the whole of this took place very early in our Proceedings, when we were surrounded with Difficulties and Impediments, which I do not boast of having got over, but they have been got over; and our Endeavour was to work with such Materials as we could find in Ireland. We had young, untrained Clerks, not always remarkable for their Exactitude and Punctuality; our Business was to make the best of them, and to get through our Work as well as we could. But with these raw Materials we had to work; and that which is the First Volume of our Register certainly is not executed so well as I could have wished it to have been done. There is One Omission in it, which is that they have omitted altogether in the Heading the Dates on which the Documents were received. It will be supplied from our rough Register, which is now in Dublin.

577. Do you mean that the Minutes are gone back to Dublin, or that they are in the Office here?

There is a Copy of the Minutes in London.

578. That you could procure?

That might be procured.

579. Will you read the Letter of the 18th of March, in reply to Mr. Bagwell; Letter No. 8. in Page 3. of the Return?

“The Poor Law Commissioners beg to acknowledge the Receipt of your Letter of the 12th instant; and having in consequence of it made further Inquiries as to the Fitness of Mr. John Butler for discharging the Duties of Returning Officer under the Poor Law Act in the Clonmel Union, they now desire to state that they have received strong Recommendations in favour of the Appointment, founded on Mr. Butler's personal Qualifications; and with regard to his political and other Connexions, they desire to observe that the Duties of a Returning Officer being all strictly defined and limited by the Order under which he acts, no discretionary Power is left to be exercised to the Prejudice of any Interest involved in the Election. The  
Commissioners,

Commissioners would always desire to obtain the Services of a competent Person, who has not publicly taken any decided political Part; but whether such Person is proposed or not, they endeavour to select the Returning Officer without reference to his political Connexions, looking only to general Competency and personal Respectability. These Qualifications they are assured Mr. Butler possesses, and they have therefore determined to appoint him on this Occasion, relying on their Regulations for insuring a faithful and impartial Performance of his Duties."

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580. What is the Date of that Letter?  
The 18th of March.

581. You were in Dublin then?  
I returned on the 12th of March.

582. As the Board had only received Mr. Hawley's Letter of the 16th of March, dated from Tipperary, how had they obtained all the rest of the Information stated in that Letter, Mr. Hawley's Letter merely stating that Mr. Bagwell objected to Mr. Butler because he was the Nephew of the Roman Catholic Archbishop of Dublin?

So far as I am aware, our Information was derived exclusively from the Assistant Commissioner in charge of the District, whose Duty it was to inquire and to report.

583. Who is that?  
Mr. Hawley.

584. But the only Information which you got, after the Letter of the 12th of March, from Mr. Bagwell, up to the 18th, was that one Letter from Mr. Hawley, who was at that Time in Tipperary, therefore you must have got Information from some Person in the Office. Do you recollect having any Conversation with any Assistant Commissioner upon the Subject?

I cannot say that any other Information was obtained. I have no Recollection of any other.

585. Is it not possible that Mr. Phelan, having been in Dublin at that Period, might have given you that further Information?

It is possible; I have not the slightest Recollection of it; and I do not think it likely.

586. Have you directed any further Inquiry to be made as to Mr. Butler's Character?

I have not.

587. Are there no Inquiries now making as to Mr. Butler's Character?

We have nothing to do with Mr. Butler at present.

588. Do not you consider that Mr. Butler's Character is important, inasmuch as the Characters of the Assistant Commissioners are involved in the Recommendations they have given of him?

I do not. The Assistant Commissioners obtained the best Information they could of Mr. Butler's Character and Fitness for the Office, and on the Information so obtained they reported, and on that Report the Commissioners acted.

589. You have said that you consider the Statement, that Mr. Butler was residing in Clonmel as a private Gentleman, lately retired from Business, would not be a true Statement, if he should turn out to be an Insolvent. That Recommendation you had from one of your Assistant Commissioners, who says, in that Letter, that he has been intimately acquainted with Mr. Butler for Twenty-seven Years. Do you conceive that a Man who gives you that Statement respecting a Person to be appointed under the Poor Law Commission is a Man who is fit to be an Assistant Commissioner, if it should prove that Mr. Butler is such a Person as has been represented?

The Letter quoted from, I believe, is a Letter of Introduction from Mr. Phelan to Mr. Butler, introducing him to Mr. Hawley and Mr. Hancock.

590. It is a Letter dated the 23d of May. When certain Complaints had been made  
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made against Mr. Butler, further Inquiries were made, in the Month of May, about him, and then Mr. Phelan writes this to the Poor Law Commissioners?

I would state that with the Amount of Business to be transacted, and the Number of Matters that pass through one's Mind, the Appointment of a Returning Officer is not considered to be so very important as to occupy a very large Portion of one's Time. With the Amount of Business to be transacted it would be impossible for the Commissioners in Dublin to pursue those minute Inquiries.

591. The Question has no reference at the present Moment to the Appointment of the Returning Officer, but to the Fitness of a Person to be Assistant Commissioner. The Question is, whether you consider a Person fit to be trusted as an Assistant Commissioner who could make that Statement respecting Mr. Butler, at the same Time stating that he had Twenty-seven Years of Acquaintance with him, if Mr. Butler should prove to be of the Character that has been represented?

Any Assistant Commissioner who could be capable of making a false Statement is certainly no longer fit for the Office of Assistant Commissioner.

592. Do you not consider it to be of Importance to inquire whether a Statement made by an Assistant Commissioner is true or false?

I think it is desirable.

593. Had not the Character of Mr. Butler come before under Consideration?

I have heard more of Mr. Butler within these last few Days than I had ever heard of him before.

594. Do not you conceive that Mr. Butler's Character involves Mr. Phelan's Veracity?

I think, to a certain Extent, it does.

595. Do not you think that is a fair Subject of Inquiry?

It is a proper Subject of Inquiry, I think.

596. And yet you have directed no Inquiry to be made into it?

I have not directed any Inquiry. I have been in London Three Days.

597. Who recommended Mr. Phelan to you?

Mr. Phelan was very strongly recommended. If your Lordships will allow me, it this Moment occurs to me that I have a Letter in my Pocket which was written by Mr. Phelan on Saturday last; perhaps it may be satisfactory if I were to read this Letter, as it may enable Mr. Phelan to speak for himself. It has immediate Reference to this Question. This is a Letter dated "Rathmines, Saturday Morning." I received it on March the 13th. "Dear Sir, As it would appear to be an Object to damage me in public Opinion, perhaps, with the view of some future Attack on myself, you may think it not amiss to be enabled, if necessary, to make use of the following:—When I was a Candidate for the Surgeoncy of the Clonmel (County of Tipperary) House of Industry, I was opposed by Two very respectable Medical Men, both Protestants, each supported by influential and respectable Friends and Connexions. I had no Relation or Connexion in the County, but had practised in it some Years. The County Magistrates were ex-officio Governors; the second Class were the local Governors, those residing in and around Clonmel who had been elected by the existing Governors. Thirty-two Magistrates voted on the Occasion, and Twenty-four local Governors also voted; of the former, Twenty-eight voted for me, of the latter, Seventeen. In all I had Forty-five Votes; my Opponents only Eleven. I do not believe there were above Five or Six Catholics present; those that voted for me were of all Parties and Persuasions; High Church, Whig, Conservative, &c., and they were the chief Proprietary of the Country. About Two Years afterwards the Surgeoncy of the County of Tipperary Gaol became vacant, and though a Protestant Gentleman connected with One of the most influential Families in the County opposed me, I was appointed to it by Twenty-two Grand Jurors to One. These are Facts, and such as I did feel and do feel proud of. They prove that I did stand in some Estimation in the County; and when those Appointments took place I was just as well known to be a Roman Catholic and a moderate Whig Reformer as  
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at any subsequent Period. Up to the Day I left the County I had no Reason to think that I was held in less Estimation by these Parties. Excuse, dear Sir, yours very faithfully, D. Phelan." I take the Liberty of reading this as bearing better Testimony to Mr. Phelan's Position, and the Estimation in which he was held, than any thing that I can say.

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598. When is that Letter dated ?

It is dated Saturday Morning ; it must have been on the Morning of Saturday last.

599. You do not mean to convey to this House that the Statement in that Letter had any reference to Mr. Phelan's Appointment as Assistant Commissioner Two Years ago. Upon whose Recommendation was Mr. Phelan appointed an Assistant Commissioner ?

In some considerable Degree he was appointed on my own Knowledge of his Character and his Qualifications.

600. With reference to Medical Charities ?

With reference to Medical Charities ; I became acquainted with him first in connexion with that Subject. He was also very strongly recommended to my Colleagues and myself by Lord Morpeth, and by the late Mr. Drummond. Your Lordships have printed in the Returns of last Year Mr. Drummond's Letter of Recommendation of Mr. Phelan, and also Lord Morpeth's Letter.

601. Was not he recommended also by Mr. Ball, the Member for Clonmel ? I believe not ; I have no Recollection of it.

602. In Mr. Drummond's Letter to the Commissioners, or to you personally, does not he state so ?

I only speak from Recollection ; I never have thought upon the Subject from the Moment the Appointment was made.

603. Had not he written a Book upon Medical Charities, upon which an Act of Parliament was proposed to be founded, which did not pass ?

He had ; it is a Book of very high Character ; the only good Book upon the Subject.

604. Had you read that Book before the Appointment of Mr. Phelan ?

Clearly. I made Mr. Phelan's Acquaintance when in Clonmel. At the Commencement of this Inquiry I was anxious to ascertain from whom I could obtain the best Fund of Information ; Mr. Phelan was pointed out to me as a Man in the Country possessing fuller Information than any other Individual, and I sought him out ; I was deputed to obtain Information, and I did it to the best of my Power.

605. Were there not a great Number of Complaints made by the Rate-payers and some of the Guardians of the Clonmel Union after Mr. Butler had commenced his Duties as Returning Officer ?

There were.

606. You directed further Inquiry to be made into Mr. Butler's Fitness and Character, and the Letter of the 23d of May 1839 was received by you from Mr. Phelan ?

Yes.

607. Who directed those Inquiries to be made of Mr. Phelan ?

I directed an Inquiry to be made myself very shortly after my Return from London, where I was on public Business, getting through a short Amendment Act. On finding those Complaints in the Office, which were very long, very numerous, and very weighty, and understanding that Mr. Phelan knew Mr. Butler, and that he had recommended him to the Attention of the Assistant Commissioners, on whose Recommendation alone I appointed him, I directed Mr. Phelan to write me a Letter stating what he knew of Mr. Butler, and that Letter is the one referred to.

608. Having made those Inquiries of Mr. Phelan, did Mr. Phelan show you the Letter from John Butler, dated Clonmel, the 6th of February, and the Letter of Mr. Hancock, dated the 12th of February ?

No, I never could have seen those. This of the 6th of February is a Letter from Mr. Butler to Mr. Phelan.

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609. Did

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609. Did Mr. Phelan, who it appears by the Date of this Report wrote that Report in Dublin, show you this Letter, dated the 6th of February, from John Butler to Denis Phelan, and from Mr. Hancock to Mr. Phelan?

I presume not; I have not the slightest Recollection of it. I am not certain, but I suppose not.

610. If you did see them would the Fact appear upon the Record?

If any Act whatever took place with reference to these Letters certainly they would have appeared on the Record.

611. There are Two Things with respect to an Act. There is, first, its taking place, and there is also the Omission to act. Now ought not you to introduce upon the Record the Fact on both Sides?

Clearly, the Record should be complete; but I cannot imagine that this Letter could have been shown to me.

612. Will you read that Letter of the 12th of February 1839, from Mr. Hancock to Mr. Phelan?

"Mr. Bianconi recommends most highly Mr. Butler for this Appointment of Returning Officer for Clonmel Union; he is the Nephew of Dr. Slattery, the Catholic Archbishop of Cashel,—the only Archbishop of Cashel." The Word "Arch" I see is accented; I presume had there been another Archbishop it would have been penal to have used the Title.

613. Who is Mr. Hancock?

An Assistant Commissioner.

614. If you had seen that Letter probably you would have recollected it, being of so peculiar a Nature?

In the Number of Letters that I have, independently of the Mass of Business, to think of it might have escaped my Recollection. The Amount of Business that we have to attend to in our Office is hardly thoroughly understood.

615. Was it not Mr. Phelan's Duty, when you desired him to give you further Information with respect to his having recommended this Mr. Butler, to have laid before you the Letter he had received recommending Mr. Butler to him, so that you might have the fullest Information upon the Subject which the Assistant Commissioner possessed?

I think not; I told Mr. Phelan to state to me what he knew of Mr. Butler, and what he believed as to his Competency for the Duties.

616. Are you aware who the Commissioner was who investigated the Complaints made from certain Rate-payers and Guardians of the Clonmel Union, during the Months of April and May, against the Conduct of Mr. Butler as Returning Officer?

I am not quite certain; I should presume Mr. Hawley. There have been Two Changes, and I am not clear as to the Dates.

617. It appears from the Correspondence that the Letters begin about the 23d of April, and go on during the whole Month of May and Part of the Month of June. Do you not know who was in Dublin at that Period?

I do not. My Wish on all Occasions, and the only Way in which I deal with the Business which I transact is, when a Letter or a Subject is dismissed to dismiss it entirely from my Mind, and to apply the whole of whatever Power I have to the succeeding Subject. It is in that Way only that I can deal with the Business that arises. I never think of it again unless the Subject is brought up by some new Matter.

618. Cannot you tell the House what Head Commissioner or what Assistant Commissioners were doing Duty in Dublin during the Month of April or May 1839?

In April and May 1839 I was in Dublin. I returned to Dublin the 12th of March, and I left it on the 22d of May, so that from the 12th of March to the 22d of May I was in Dublin.

619. Did you investigate the Complaint made by the Magistrates and the ex-officio Guardians against Mr. Butler with regard to improper Conduct at the Election of Guardians for that Union?

I must have directed the Investigation, and I must have superintended the Investigation,

Investigation, and have examined the Reports made on the Occasion, but I have no Recollection of the Results now.

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620. You have no Recollection of Mr. Butler having been charged with having erased the Names of certain Candidates from the Nomination Papers, and substituted others, and with having forwarded a Disclaimer from a Man of the Name of Davis, who was charged with having signed a Nomination Paper in the first instance, and then having disclaimed it in the second, and of Mr. Butler having been charged with having induced Davis so to write a Disclaimer which was false?

I have a Recollection of that Circumstance. Vast Numbers of Complaints arise in every Election, and particularly in first Elections, where, owing to the Irregularity of the County Cess Books, and other Circumstances, it is with the most extreme Difficulty that a First Election can be completed at all with any thing like tolerable Order, and how we have accomplished it I am scarcely able to say; but the Circumstance mentioned I have a Recollection of; the Charge of false swearing I do recollect, and it was very carefully investigated by the Assistant Commissioner, and a Report was made upon it.

621. Will you recollect yourself, and state whether any Assistant Commissioner investigated it, or whether it was merely a Correspondence with the Individual charged with having committed such Acts?

Reasoning according to the usual Course, I should have said that the Assistant Commissioner would have been directed to investigate the Circumstance.

622. Was that done?

At this Distance of Time I cannot answer.

623. Will you refer to the Return of the 17th of February 1839?

If an Inquiry by the Assistant Commissioner was not ordered, there must have been some peculiar Circumstances in the Case to make it an Exception. The Paper that I see here, No. 6., brings it to my Mind. Davis sent a Letter to the Office disclaiming having made a Nomination.

624. Will you read the Letter No. 5.?

"I am directed to state, in reference to your Letter of the 23d instant, that full Inquiry will be made into the Circumstances stated as to the Disclaimer of Mr. Davis." That is the 24th of April.

625. To whom is the Letter addressed?

To Henry Pedder, Esquire, to whom a vast Number of Letters have been addressed.

626. What full Inquiry was made into the supposed false Disclaimer of Mr. Davis?

I am taken rather at a Disadvantage with these Papers, as the Matters have escaped from my Mind. On the 24th of April the Commissioners write to say that they will make Inquiry; on the 25th of April, the next Day, there is a Letter from the Returning Officer, stating that the Circumstance into which the Commissioner had pledged himself to inquire is set at rest by the Fact of the Person who is stated to have made the Nomination declaring that he had not made it; the Commissioner on receiving that Answer conceived it unnecessary to make any further Inquiry.

627. That last Letter is from Mr. Butler?

It is.

628. And you have taken Mr. Butler's Word for that Fact?

No; here is the Disclaimer of the Person who was stated to have made the Nomination.

629. Letter No. 7. from Henry Pedder states, "Herewith I beg to enclose you a Protest, signed by a Number of Rate-payers and Land Owners of the Electoral Division of Clonmel, against the Return made by Mr. Butler, which Return was caused by the partial Conduct of him as such Returning Officer. It is hoped that a proper Investigation will be had into the several Matters complained of, and a new Election ordered." That Protest is signed by a great Number of respectable Persons, and it states in detail the Facts complained of. What

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Proceedings

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Proceedings were taken upon that Protest, demanding further Inquiry into the Disclaimer of Davis?

Answering entirely from Recollection, if I answer wrong I hope I shall not be considered as meaning to mislead the House; but my Belief is that no Proceedings were taken. It had then become a Crime. The Crime of Forgery or False Swearing was then imputed to Davis, which was a Crime cognizable by the Law, and we should not have been justified in interfering.

630. That did not take place till a considerable Period afterwards. It appears that a long Correspondence took place between some Person and the Commissioners, with regard to the Charges made against Mr. Butler. Who was the Person with whom the Board communicated, to know whether the Charges in that Protest were false or true?

I cannot from Recollection state that.

631. No Assistant Commissioner was sent down to investigate those Charges?

There must have been some Reason for that, which I am not enabled now to state.

632. From whom is the House to expect Information upon those Points?

I am quite ready to give Information when I have the Means of giving it, by having recourse to the Documents.

633. You would have been able to answer those Questions if the Books had not been taken back to Ireland?

It would most likely take some Time. The Correspondence in this Case of Clonmel is very voluminous, and it would take some Time to be able to give clear and distinct Answers as to Reasons. It is not merely reading a Letter that would enable me to give a clear and distinct Reason for what was done. I was placed there in a Position to act on my own Responsibility, to the best of my Judgment, on the Circumstances as they arose.

634. The Question was whether an Assistant Commissioner was sent, or whether any Inquiry was made as to those Transactions. You say you cannot speak now as to that Fact. If you had the Books here should you be able to answer the Question as to whether any Inquiry was made, and what the Character of the Inquiry was?

Clearly.

635. You said that the Books over here were Copies from the original rough Minutes?

The Register was.

636. And the rough Minutes are fuller in some Particulars than that Copy?

No, I believe not.

637. You said that in one respect they were, namely, as to the Date when the Letters were received?

Merely the Heading.

638. Would not these rough Copies have done just as well to make out the Returns from that are now ordered by the House as this Copy that was brought over here?

They might.

639. Then where was the Necessity for sending back that Book?

Every Book and Paper was taken back upon the Understanding that they were no longer needed. Every Paper in the Office and every Book is forthcoming, which your Lordships may desire to see.

640. Whence was that Understanding obtained, that they were no longer needed?

From the House Yesterday.

641. Were you not aware that you were to be examined?

I was not aware that I was to be examined on those Points.

642. On what Points did you expect to be examined?

I expected to be questioned generally as to the Principles which governed the Commissioners.

643. Not

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643. Not as to the particular Matters which the House was investigating with regard to the Clonmel Union?

It was only last Evening after the House broke up that I was aware that I was to be examined. I never received any Order to be examined previously.

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644. Were you not aware that One of the Complaints was, that a proper Return of all the Correspondence had not been made to the Order of the House?

Yes; I regretted very much that there was Ground for that Complaint; it was a Source to me of very serious Regret.

645. You consider that a Complaint in which the Character of your Office is involved?

Most clearly I do; I observed it with most painful Feelings.

646. Of course you would not be able to answer any Question as to whether certain Papers were given or not, without having the Book to refer to?

I should not; not minutely.

647. Did you not imagine that you, as the Head of the Commission in Ireland, would be likely to be examined upon that Point?

I did not expect to be examined upon that Point.

648. Were you in Dublin in May 1840?

I was in Dublin after the 18th of May 1840; I returned to Dublin the 18th of May.

649. Were you in Dublin on the 6th or 7th of May 1840?

No; I returned to Dublin on the 18th of May.

650. How long had you been absent before that Time?

From the 25th of April.

651. Here is a Letter from Mr. Fennell, which you will see in the Return presented to the House. On the Back of the Letter there is an Indorsement signed "R. E." to this Effect: "Acknowledge and acquaint that his Application will be considered when the Time arrives for selecting a Returning Officer for the Clonmel Union; forward to Mr. Hawley for his Information;" dated 16th February 1839. Would any Clerk seeing that Indorsement upon the Back of the Letter of Mr. Fennell be justified in writing a Draft not in conformity with that Indorsement?

I think not.

652. No verbal Direction, even from Mr. Erle himself, would justify the Clerk in varying his Draft from that Indorsement?

I do not know that. My first Answer was on the Supposition that no subsequent Instruction had been given; that Indorsement would be acted upon unless subsequent Instructions had been given. I of course have seen that Letter before I left Dublin, and since I came here. I am confident that Instructions must afterwards have been given, or that Note of Mr. Erle's would have been acted upon.

653. By whom were the Instructions given?

Of course this is Matter of opinion only. I think the Instruction must have been given either by Mr. Erle himself or by Mr. Stanley. There are no other Persons from whom the Clerk could have received Instructions. Mr. Erle acts for me in my Absence. Mr. Stanley is the Secretary of the Commission, and of course was cognizant of what was passing within the Office, and might have communicated with Mr. Erle, and received his Instructions, and have then given them to the Clerk. The Clerk would be justified in taking Instructions either from Mr. Erle or from Mr. Stanley, but certainly from no other Person.

654. If those Instructions had been given verbally, being in contradiction to the written Indorsement upon that Letter, would it not have been right that there should have been a Minute made of the verbal Instruction?

Certainly there ought.

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655. Therefore

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655. Therefore there is great Irregularity if such a Minute does not appear? No question of it. If I had made the Minute myself, and it had been afterwards departed from, I should have said it was an irregular Transaction; and I do not know any Instance within my own Knowledge of a similar Irregularity.

656. Your Attention is called to that Part of the Evidence of Mr. Stanley to which Allusion was made in a former Part of your Examination, with reference to his Presumption of what might have happened as to the Alteration of this Minute of Mr. Erle. Will you turn to his Evidence on the First Day, at Pages 13 and 14? (*The same being shown to the Witness.*) What would be your Opinion of such a Transaction; should you consider it an Irregularity on the Part of Mr. Phelan to have interfered in that Way?

I should think it no Irregularity in that Case, supposing that Mr. Phelan visited the Office on that Day. I believe he was in the habit of going there when in Dublin for his Letters; he may have seen Mr. Stanley, or he may have seen Mr. Erle, and may have said that he had given a Letter of Introduction to Mr. Butler as a fit Man for a Returning Officer; that was my own Impression. He may have mentioned that Circumstance at the Office.

657. Would it not have been an Irregularity for Mr. Erle's Draft to have been altered upon Information so acquired from Mr. Phelan?

I think Mr. Stanley must have been mistaken.

658. You think Mr. Stanley, stating this only to be Presumption on his Part, is probably mistaken?

I think he is mistaken. I will state with reference to Mr. Stanley, that before I left Dublin on Saturday I felt very uneasy at this, inasmuch as the Integrity and Correctness of our Return was called in question; it is the first Occasion in my Life on which my own Correctness was ever called in question; it never has been called in question in my Life before, and I felt pained exceedingly that a Return from our Office should be called in question, particularly by this Honourable House, for which I have so much Respect; and I questioned Mr. Stanley on the Subject. He brought me that Letter; his Distress and Concern were very great; he saw that there was an Error, and he could not account for it, but after endeavouring to recollect, he left Dublin with the Conviction on his own Mind, which Conviction he stated to me, and I came over to London with the Conviction on my Mind, that the Alteration made on the Back of that Letter was not made at the Time; that the whole of it was intended to be transferred to the Letter sent to Mr. Fennell; and that that was his Persuasion at the Time. I arrived in London with that Conviction in my Mind, and that it was purely a Mistake or Omission on the Part of the Clerk. About that Period, or some Time after, we had occasion to dismiss a Clerk who behaved very ill, and committed many Acts of Irregularity, and it occurred to us that that was probably one of them. I mention this in Justice to Mr. Stanley; he has acted with me now for some considerable Time,—Two or Three Years,—and I will state this in his Favour, that I have never met with a Man with a greater Anxiety to do what is right, and to perform his Duty faithfully. He is in the Office from Nine in the Morning generally till Six at Night. I never met with a Man with greater Devotion to his Duties in my Life in any Service or in any Part of the World, and I never met with a Man who had a stronger Appreciation of the Value of Truth. I never found in Mr. Stanley the least swerving—the least Tendency to swerve from the Truth: that is the Man's Character. His Defect is, that he is nervous and irritable; his Health is not particularly good, and his very Anxiety to do what is right sometimes leads him a little astray. I believe that was the Case here. He left London last Night in such a State of Excitement and Anxiety of Mind that if he had been kept in London another Day I doubt whether he would have survived.

659. Mr. Stanley having been engaged in the whole of this Correspondence with Mr. Fennell, is not his Impression more likely to be correct than yours?

That is a very reasonable Inference.

660. Then if Mr. Stanley has the Impression that the Understanding in the Office

Office that Mr. Butler was appointed came from Mr. Phelan, it is more likely to be a correct Impression than any you are likely to form now?

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Speaking generally, I should agree in that Proposition; but looking at Mr. Stanley's nervous Temperament, and at the State of Mind in which I saw him Yesterday, and in which it was painful to see him, I should rather be disposed to trust my own Judgment.

661. Then do you mean that the House ought to pay very little Attention to any Evidence which Mr. Stanley gave?

I do not mean to say that.

662. When you give that Explanation of the contradictory Character of these Letters, you will observe that in the Office it is supposed that unquestionably Mr. Butler had the Appointment before the Recommendation came from the Assistant Commissioner of the Union. How came that to be the Impression?

I do not know, except in the Way I have just mentioned, that Mr. Phelan might possibly have spoken to Mr. Stanley. It is not impossible that there may have been a private Note from Mr. Hancock or Mr. Hawley to Mr. Phelan, or that there may have been some private Communication that I am not aware of.

663. If there were any such Communication, ought it not to have been returned to the Order of this House?

Any thing in the Shape of an official Communication.

664. Any Communication, as there can be no Communication in such a Case that is not official?

I do not know that there was any Communication; I only conceive it possible that there might have been some.

665. Have you any Reason for entertaining that Impression? Has any one ever told you that there ever was any private Communication upon the Subject?

Certainly not; but in answer to the Questions put to me I am looking round for Possibilities.

666. Did it ever occur to you before the present Moment, when that Question was put, that there may have been any private Communication from those Gentlemen?

I never thought of it in that Light till this Moment when the Question was put; but it occurred to me that Mr. Phelan might have mentioned to Mr. Stanley that he had given this Letter; it is merely a Guess.

667. It is a mere Guess and Conjecture?

It is.

668. Do not you think, that considering you are at the Bar of this House, upon your Oath, it would be better to confine yourself to that which you can declare positively, without stating any thing upon Guess to the House?

I was asked my Impression, and I gave it.

669. Can you explain to the House this singular Circumstance? Here are Three Returns made to the House purporting to give Extracts of a Letter from Denis Phelan, Esquire, to the Assistant Poor Law Commissioners, and that Letter is given differently in the Three different Returns; can you account for that?

The last Return being the complete Letter, I think.

670. How can the House know that it is the complete Letter?

I think the original Letter was produced to the House; but whether it was or not, that is a Point that I verified myself; I am answerable for that myself.

671. Then the other Two Returns are not exact Copies of the original Letter?

Having the original Letter before the House, your Lordships are better Judges of that; but the Way in which the Discrepancy arose I can only describe as Matter of Opinion, if your Lordships wish to have my Opinion upon

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it. The Extract in the first Return I marked myself to be given as an Extract, as I think Mr. Stanley stated in his Evidence.

672. That is the Extract which was printed for the House on the 17th of February 1840?

Yes.

673. You were in Dublin at the Time that you gave that Direction?

I was.

674. The Order of the House is for the "Correspondence between the Commissioners of the Poor Laws in Ireland and certain Magistrates, Henry Pedder, Esquire, and others, respecting the Election of Guardians." It says, "Correspondence," not "Extracts of Letters." Did you consider yourself justified in giving an Extract of a Letter when the Order of the House was for the Correspondence?

I did not consider that the Order of the House included that Letter in the Return, but it appeared to me necessary to be given with the preceding Papers, in order to give the House a complete View of the Case.

675. But when the second Return is made, a Portion of that very Extract is left out, and other Words are introduced?

Yes; I am very sorry to see it. Mr. Stanley explained how it occurred. I think it was not intentionally wrong, I am clear; but he did not in that Case exercise a sound Judgment, and I regret it. The obvious Thing would have been to give the same Extract that was given in the previous Return, and if he had referred to that Return he would have done it; but he seems to have forgotten that a Return had been made previously, and was at the Trouble of making a fresh Extract.

676. In his Evidence he states that he thought it would be more favourable to Mr. Butler?

He certainly told me that he had forgotten altogether that there had been a previous Extract of the Letter, on my asking him why he gave different Extracts at different Times.

677. Why did not he send a complete Copy, and not change the Words?

I cannot say.

678. Why did you recommend these Words to be left out, "Having learned that Complaints have been forwarded to you against Mr. Butler, Returning Officer for the Clonmel Union, I take the Liberty of informing you of such Circumstances as I happen to be acquainted with respecting his general Character and Habits, and his Appointment to that Situation?" As those Words materially affect the Objects sought in the Second Return, namely, the Character and Habits of the Person who had been recommended as Returning Officer, why they were left out?

They did not appear to me to bear on the Fact of Mr. Phelan's Recommendation. The only Point that was present to my Mind was, Who chiefly recommended Mr. Butler?—Mr. Phelan. In what Way did he recommend him?—What are the Words he uses? I wished the House to see the exact Words used by Mr. Phelan, and with that view I directed the Extract to be given.

679. What Document had you in the Office which, at the Date of the Letter of the 23d of May, proved that Mr. Phelan ever had recommended him?

At that Time in the Office we had no such Document. I explained to your Lordships before that the Appointment is made on the Recommendation of the Assistant Commissioners, who are answerable whenever called upon to state the Reasons why they have made the Recommendation. If I had been directed by this House to obtain from the Assistant Commissioner in charge of the Union the Grounds upon which he had recommended that Appointment, and on which Recommendation the Commissioners had confirmed it, I would have obtained from the Assistant Commissioner a Report of the Circumstances which would have brought out all those Points that have been referred to this Evening.

680. Then it was not till about the 20th of May 1839 that you were aware that Mr. Phelan had been the Person who had recommended Mr. Butler, because

because there is no Document returned to this House previous to the 20th of May 1839 which shows that Mr. Phelan had any thing to do with it?

I have no Recollection of it, but I presume on my Return to Dublin that Mr. Erle, whom I had left in charge, would have explained it in common with every other Circumstance that had occurred during my Absence.

681. Will you have the goodness to turn to the Minutes of Evidence, No. 1. Question 15, and read the Question and Answer?

“Has the Lord Lieutenant for Ireland inspected that Book since the 1st of March; this present March?—The Lord Lieutenant has been in our Office, but I cannot say whether he has inspected this Book. With my Knowledge he has not inspected this Book.”

682. Was his Excellency in the habit of going to your Office often?

Certainly not. The Position of the Lord Lieutenant in Ireland does not often bring him in contact with the Poor Law Commissioner, but it did so happen that one Morning the Lord Lieutenant was in the Office; and if your Lordships will permit me I will explain the Circumstance that brought him there. On receiving from the Noble Marquis an Account of the Proceedings in this House on Monday Morning, and the Observations that were made, I was, as may be easily conceived, very much distressed and very much embarrassed, not for myself, but for the Cause which I was there to administer, and which I had great Apprehension would be injured by such Proceedings; and I immediately set about endeavouring to get the best Means of meeting any Charges of Irregularity, or of any other Description, that might be brought against my Colleagues or myself, or against the Office. Whilst I was so occupied, having a great Number of Letters to write and other Business to dispose of, I received a Message from his Excellency the Lord Lieutenant, requesting me to go to the Castle at Two o’Clock. Under common Circumstances, as must be well known to your Lordships, it is improper and indecorous not immediately to obey a Summons of that Kind; but the Kindness and Consideration with which I have always had the Honour of being treated by the present Lord Lieutenant encouraged me, instead of going, to send a Note, begging that he would be kind enough to excuse me till Four o’Clock, as I was fearful that I should not have been able to finish what I had in hand in Time for the Post. I sent this Note, and about Two o’Clock, to my Surprise, and certainly very much to my Gratification, the Lord Lieutenant saved me the Trouble of going to the Castle; feeling most kindly for me upon the Occasion, he came to the Office to make Inquiries, evidently distressed at what had taken place,—to make Inquiries as to how we stood, and whether there was any Ground for the Charges. Upon that Occasion the Register was open upon the Table, and I pointed out to the Lord Lieutenant the Date and the Letter, and the Answer that was given, and he saw the Bearing of the Question. On that Occasion when he was at the Office we talked for some Time on the Subject. I may state perhaps that the Lord Lieutenant has a very deep and a very strong Sense of the Importance of the Measure for Ireland. He takes a deep Interest in our Proceedings, and is fully alive to all the Consequences of the Measure itself, and to all the Consequences also of any Discredit that from any Cause may be thrown upon the Measure, or upon those who have the very difficult Task of introducing this Measure,—a Difficulty that, without great Care on the Part of the Legislature, and on the Part of the Government, and on the Part of those who have to administer the Law, will increase instead of being diminished; but if we are fortunate enough to have the Confidence and Support of Government and of Parliament, I have no Fear for the Result of this Measure; we shall carry it out, and be successful, and it will realise all those Consequences that have been anticipated from it by the best, ablest, and wisest Men of the Day.

683. Did his Excellency only inspect the particular Part which you pointed out upon that Occasion?

Certainly no other Part; I believe he only looked at that single Line of the Register; I believe nothing else.

684. Has his Excellency on other Occasions gone to the Office?

He has; how often I cannot say; on One Occasion I distinctly recollect seeing him; I cannot say whether Once or Twice; if it has been 'twice that

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is the Outside; but I have only a clear Recollection of his being there once. Whenever he has come it has been on a Mission of Kindness to the Commission, and with the view of aiding and supporting and countenancing the Law.

685. Will you turn to Question 19, where Mr. Stanley is asked, "Did you ever know the Lord Lieutenant of Ireland call at the Poor Law Office?" The Answer is, "He has frequently called"?

That is a Mistake on the Part of Mr. Stanley; it must be a Mistake resulting from the Nervousness which I spoke of.

686. He has called a few Times?

On one other Occasion, certainly; possibly Twice; but I have only a Recollection once.

687. When he did call, did he at any other Occasion than the Time before mentioned look at the Register?

Never, to the best of my Knowledge and Belief.

688. Then it was only accidental, his looking over the Register, upon the Occasion before referred to?

Purely accidental; the Book was open upon the Desk before me, and I referred him to the Line.

689. Then Mr. Stanley is incorrect in the Statement he made? He was mistaken, certainly.

690. Mistaken as to the Number of Times, not as to the Fact? As to the Number of Times.

691. You stated that you returned to Ireland about the 18th of May 1840? I did. I have these Dates from the Records of the Office in London.

692. Then you were in London upon the 11th of May, when this Return containing the Correspondence was printed for the House of Lords? Were you made cognizant of it at the Time?

I presume that I must have been.

693. Have you any Recollection of having seen the Return when so printed for the House of Lords?

I have not.

694. On your Return to Dublin did you make any Inquiry on the Subject of what had taken place, and were you there informed that a Return had been made to the House of Lords?

I must have been informed of it. I will not say that I did not see that Return, but I have no Recollection of it.

695. Did you look at the Return which had been made, when on your Return to Dublin you found it had been made?

I suppose I made Inquiry as to the Return; but after a Week's Absence from Dublin I had a great deal to do on my Return.

696. You have no Recollection of having compared it with the Return which had previously been printed on the 17th of February in the same Year?

Certainly not. I was not aware of the Discrepancy till my Attention was called to it.

697. Have you made any Observation to Mr. Stanley upon the Subject since your Attention has been called to it?

I have; and I will take upon myself to say this, that as long as I continue connected with the Commission such an Inaccuracy will never occur again.

698. Have you made any Observation to Mr. Stanley, not merely upon the Circumstance of a Portion of this Report to the Poor Law Commissioners by Mr. Phelan having been omitted in the Papers printed on the 11th of May, but likewise upon the Omission of the Date, and upon the Paper being placed in a Position which gave a very different Impression to any Person reading it from that which would have been derived from it if it had been placed according to its Date, and with the Paragraph by which it ought to have been preceded?

Your Lordships will allow me to remark, that on all accounts I am glad of this

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this Investigation, with one Exception. I am glad that our Attention has been called to the Importance of Exactitude and Accuracy in our Statements and Returns. I am glad that we have been pressed much to feel the Importance of that Accuracy. No Person can stand at this Bar without feeling strongly the Importance of that Accuracy. On all these Accounts therefore I am glad of this Investigation; I think it will be of Service to the Commission. The only Ground upon which I grieve at it is, that if any thing should go abroad to the Public calculated to show that the Confidence of this Noble House is withdrawn in any way, or on the Part of any Member, from the Commission, we have not that Support which we need, and without which we can do nothing; and if any thing should tend to produce that Effect I shall lament it most deeply.

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699. Will you state to the House what is the precise Amount of Emolument, and what are the Functions, of the Returning Officer of a Union?

The Emolument is very small.

700. Can you state about what it is?

I think the usual Emolument of a Returning Officer is from 15*l.* to 20*l.* We are now revising, correcting, and remodelling our Election Proceedings, which we hope we shall be successful in, and we have reduced it to 10*l.* We are most anxious to study Economy in every thing we do. With reference to the Abuses which have been referred to, I know of some, and more must have taken place than I do know, but I think we have now devised Means of correcting them in a great measure. We have provided that the Collectors of the Rates, who, generally speaking, are Persons of some Position, and who are called upon to give Security for the Performance of their Duties, shall assist the Returning Officer, and serve as a Check upon him in collecting and adding up the Votes, and giving a Return of the Numbers; in addition to that we have provided that all the Documents, as soon as the Election is over, shall be handed over to the Board of Guardians, and kept for a Twelvemonth, so that in the event of there being any Charge of Fraud or dishonest Dealing, or improper Practice in any way, we have all the Documents, and we shall be able to follow it out; and we hope that those Two Regulations will be a Safeguard against any improper Practices; for I assure your Lordships, that, acting under a deep Conviction of our Responsibility, we are most anxious that every Guard, and Check, and Care, that can possibly be used, should be used to prevent Fraud and improper Practices. Whatever Merit there may be in our Conduct, my Colleagues, who are answerable for this as well as me, are entitled to their full Share. Situated as I am at present, the Demerit, I admit, falls mostly upon my own Shoulders; but we are, collectively and individually, most anxious to do what is right, and to prevent Abuses of every Kind, not in England only, but in Ireland also, and more especially; and I hope and trust that we shall succeed, if we have only Time given to us, and the Confidence and Support which we so much want; and if we have, I am certain that the Measure will produce all the Results that have been anticipated from it.

701. You have alluded to the Responsibility of the Assistant Commissioners; can you inform the House how they have been selected generally?

We have Eleven Assistant Commissioners acting in Ireland; Five of those have been taken from England; they are Englishmen who have been trained and practised in our English Unions; the other Six have been selected in Ireland. I can only say that they have been fairly selected, and with the most anxious Desire to have the most suitable and the best Men. They have been selected without any Reference whatever to Political Considerations; perhaps with this one Exception, that I was very desirous at the Outset in particular of meeting with some who were Roman Catholics. Looking to the Circumstances of the Country, and feeling that this Law was not for any particular Party more than another, but for the whole of the Country, I was anxious to find as many Roman Catholic Assistant Commissioners as we possibly could, and feeling also that the Men taken from England were Protestants; but of the Six selected in Ireland only Two are Catholics, one Mr. Phelan, and the other Mr. Burke, both of them, to my Belief, good Men.

702. How long has Mr. Hawley been attached to the Commission?

He was one of the first that was appointed. Mr. Hawley is a Gentleman of high Honour and Integrity, and of considerable Position in Hampshire.

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703. He

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703. He was one of the Commissioners in England?

He was.

704. He was an Englishman?

He was; he was the first that was appointed, and has acted under me ever since the Commission was established, and volunteered to go to Ireland upon its being understood that I was to go there.

705. Mr. Hawley was an Assistant Commissioner for the County of Sussex?

He was.

The Witness is directed to withdraw.

Adjourned.

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Poor Law Commission, Ireland.

MINUTES OF EVIDENCE

TAKEN

BEFORE THE HOUSE OF LORDS

RELATIVE TO

CERTAIN RETURNS

MADE BY THE POOR LAW COMMISSIONERS TO ORDERS OF THE HOUSE

RESPECTING

The APPOINTMENT of JOHN BUTLER to the SITUATION of RETURNING OFFICER of the CLONMEL UNION.

22d March 1841.

DENIS PHELAN Esquire	-	-	page 77
HENRY PEDDER Esquire	-	-	page 102



*Die Lunæ, 22° Martii 1841.*

**T**HE Order of the Day being read for the Attendance of Denis Phelan, Esquire, Assistant Poor Law Commissioner for Ireland;—

Evidence respecting certain Returns made by the Poor Law Commissioners.

DENIS PHELAN Esquire is called in ; and having been sworn, is examined as follows :

*D. Phelan, Esq.*

706. YOU are Assistant Poor Law Commissioner in Ireland, are you not?  
I am.

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707. What is your particular Department in the Poor Law Office ; are you Assistant Commissioner of any particular Union ?

I was Assistant Commissioner for the Unions in my District until a few Months ago ; I was appointed to inspect the Medical Charities in several Parts of the Country, but my Office is that of an Assistant Poor Law Commissioner.

708. Are you a Physician or a Surgeon ?  
A Surgeon.

709. Have you brought your Diary with you ?  
The Diaries are in the House.

710. Are you aware that Lord Morpeth gave Directions to the Commissioners of Poor Laws in Ireland that, wherever it was possible, High Constables of Baronies should be appointed Returning Officers ?

I am not ; but I know that was the Impression at the Poor Law Office, and that was the general Proceeding of the Poor Law Commissioners. I am not aware that his Lordship did direct any such Letter.

711. But you are aware that Instructions were given by the Government in Dublin Castle to that Effect ?

I cannot state positively that I am aware of that ; but I know that was the Understanding at the Poor Law Office.

712. Whence did that Understanding arise ?

An Understanding that, under certain Circumstances, where the Parties were competent Persons, the Situation should be so conferred.

713. What Instructions did the Commissioners themselves give to the Assistant Commissioners with regard to the Appointment or Selection of Returning Officers ?

To recommend to them fit and proper Persons who would be likely to discharge the Duties satisfactorily to the Public and to the Commissioners.

714. Nothing more ?

Those were the chief Instructions ; the Substance of the Instructions.

715. Was nothing said about being particular to abstain from recommending Persons who were connected with political Parties ?

That was either stated or implied ; always understood.

716. Did you receive a Letter from John Butler of Clonmel, dated the 6th February 1839 ?

I did receive a Letter from him at that Period.

717. In that Letter did he not request you to apply to the Attorney General to remind him that he had written Three Letters to him, requesting him to procure a Situation under Government, and that he had not answered the last Letter he had received ?

If your Lordships will permit me to refer to the Letter, I shall be able to answer the Question more distinctly.

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718. Is



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718. Is this the Letter (*the Return being shown to the Witness*)?  
This is only a Portion of it.

719. The House will read you the Extract which is left out of that Return, and which is inserted in the Minutes of Evidence: "The Attorney General has done nothing for me as yet, though he has always made me very fair Promises; I wrote Three Letters to him lately, to which I received no Answer. Should you see him, please mention this Circumstance to him." Those are the Omissions in that Return which are here inserted in the Minutes. Have you got the Letter itself?

No, I have not. I take it for granted that I did get that Letter, for I have read the Original lately.

720. You have no Doubt you received such a Letter?

No; I have no Doubt, except the Letter not being before me, and only a Portion here, I state it in that Way; but I have no Doubt. (*The Minutes which contained the whole Letter were handed to the Witness.*) This is the Letter in full.

721. When you received that Letter, did it not strike you, that, from the Circumstance of Mr. Butler having applied to the Attorney General, then Member for Clonmel, for a Situation, he must have belonged to the political Party in Clonmel which returned that Gentleman for the Borough?

I was quite aware that Mr. Butler did belong to that Party in Clonmel which returned Mr. Serjeant Ball, now Judge Ball.

722. You state, in your Letter of the 23d May 1839, that you had been intimately acquainted with Mr. Butler for Twenty-seven Years?

I do.

723. Party Spirit runs pretty high in the Borough of Clonmel, does it not?

It has done so at Times.

724. To what particular Party in the Town of Clonmel did Mr. Butler belong?

Mr. Butler was always what is called a Reformer.

725. If he had not belonged to the Party who returned Mr. Ball for Clonmel, would he, do you suppose, have written a Letter, applying to him for a Place?

I do not suppose he would.

726. You were directed, were you not, by the Commissioners in particular, not to select a Person connected with any political Party for the Situation of Returning Officer?

I do not consider that I was; but that I was directed by them to select no violent Partizan; but I should have found it very difficult, in many Places, to find a Returning Officer that did not belong to either Party, or to any Party,—I mean who belonged to no Party.

727. You have just now stated that it was understood in 'the Office, both through Lord Morpeth's Instructions and from the Instructions of the Commissioners, that no Person belonging to a political Party should be appointed to those Offices?

I did not understand that the Exercise of the Parliamentary Franchise was to prevent a Person from being appointed a Returning Officer; I understood it rather to apply to a Person that had made himself obnoxious, or that was active in a political Capacity.

728. How long have you resided in Clonmel?

For about Twenty-six Years.

729. And therefore you are very well acquainted with every Transaction and Circumstance relating to the Borough of Clonmel, and the Persons who reside in the Borough of Clonmel?

I know much of it, and of the People generally.

730. Having known Mr. Butler for Twenty-seven Years intimately, as you state

state in your Letter of the 23d May, were you cognizant of the Fact of Mr. Butler having a few Years ago made a Composition with his Creditors ?

D. Phelan, Esq.

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I was not.

731. You never heard of that Fact?

I never heard of that Fact until I heard of it, about Three Weeks ago, in Dublin.

732. Although you are so intimately acquainted with him, you never were aware that he had made such a Composition with his Creditors, and had not paid that Composition ?

Never.

733. If Evidence were to be produced at the Bar to prove the Fact that he had made such a Composition with his Creditors, and had not paid them, could you swear that he had done no such Thing ?

No, I could not. I only state that, to the best of my Recollection and my Belief, I never heard that Mr. Butler had compounded with his Creditors until I heard it, about Three Weeks ago, in the Poor Law Office.

734. Although you were so intimately acquainted with him. Did you ever hear of his demanding of Mr. Gordon his Landlord, or of his Landlord, when he left his Residence where he had carried on the Woollen Business, a Receipt for Two Years Rent which he had not paid him, before he would give him up the Key of the House ?

I never did.

735. Did you ever hear of a Trial which took place in Clonmel, the Parties being Burke versus Butler, in which it was proved that a Relative of Butler's went to America, and made over to Butler his Property as Trustee, to be given back to him on his Return, and that Butler settled this Property on his own Wife and Family ; and that when the Man returned he demanded to have the Property returned to him, and the Trusteeship given up, which Butler refused ; and that a Trial at Bar was had in consequence, and that Butler was decreed to pay 500*l.*, the Value of that Property ?

I recollect very well that there was a Trial between those Parties ; but of the Facts of the Case I have no Cognizance whatever. I was neither present at the Trial, nor do I know any thing of the Circumstances.

736. Were you in Clonmel when that Trial took place ?

I believe I was ; I am sure I was, if it was tried in Clonmel.

737. And in Habits of close Intimacy with him ?

I was intimately acquainted with him during the whole Time I speak of.

738. You swear that you were not cognizant of the Facts now stated, and of the Decree of the Judge and the Jury in that Case ?

I solemnly swear that I was cognizant of no more than that there was a Trial between Butler and his Brother, who, to the best of my Recollection, were the Parties ; I know nothing more of the Circumstances of the Case.

739. Are you aware of Mr. Butler having been brought before the Magistrates upon a certain Occasion, charged, in a Movement which took place in Clonmel, with having assaulted the Police ?

I have a very distinct Recollection of the Circumstance and the Day.

740. Did not the Magistrates in the County Court consider the Case so serious that they sent up to the Government to know what Proceedings they should institute upon it ?

I understood they did. Will your Lordships allow me to add an Explanation to that : I recollect its being sworn by a very respectable Gentleman in Clonmel that he was present at that Transaction ; that it was an Affray that took place between the Police and the Country People near Mr. Butler's Door. He swore that Mr. Butler risked his Life, and acted exceedingly usefully on the Occasion, and that he believed he prevented the Loss of Life, and that he quelled the Affray.

741. Who swore that ?

Mr. Lyons, a highly respectable Gentleman living in Clonmel.

(41.4.)

X

742. How

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742. How then did it occur that the Magistrates thought the Case so serious that they took the Opinion of Government as to how they were to proceed?

I cannot account for that; the Magistrates may have conceived it their Duty to do that; but I understand the Crown Lawyers dismissed the Case, and that there were no Proceedings upon it.

743. Did you ever see Mr. Butler at political Dinners and Meetings composed of Persons in the Interest of Mr. Ball, and called for the Purpose of furthering the Return of Mr. Ball as Member for Clonmel?

Yes; I am sure I did; almost every respectable Person of that Class in Clonmel dined at Mr. Ball's Dinners.

744. Did you dine there?

Yes.

745. Did you prosecute the Editor of the Constitutional Newspaper for some Remarks he made upon a Speech of yours upon that Occasion?

I did not.

746. Did you not serve him with a Writ?

Not for any thing that occurred upon that Occasion, but for what, I was advised by a Barrister, were a Series of Libels on me, on Matters quite unconnected with that Transaction.

747. Will you swear that it had no Connexion with that Transaction?

To the best of my Belief it had not.

748. And was it unconnected with Politics also?

I cannot say that it was unconnected with Politics, for all the Articles in the Constitutional Newspaper were connected with Politics; those that referred to me.

749. Were the Libels against you for political Conduct, or professional Conduct?

For professional Conduct. To the best of my Recollection it was for professional Conduct, or perhaps it was a mixing up of one and the other.

750. Then you swear that it was not on account of a Speech made at one of those political Dinners or Meetings?

No, I will not swear it, for I do not know the particular Occasion to which it refers, but I know my professional Conduct was mixed up with political Observations.

751. Do you allude to a Song which you were supposed to have sung on that Occasion?

There was a Song.

752. Was it for the Song or the Speech that you served a Writ upon the Editor?

Not for the Song, decidedly; but for the general Tenor of the Observations which the Paper contained.

753. You have just said that it was upon account of Comments made upon your professional Character?

And political Conduct.

754. Did you follow up the Service of that Writ by going on with the Prosecution?

I did not. If your Lordships will allow me, I will explain why: the Proprietor of the Paper was a poor Man with a large Family, and though I was advised that it was a Libel beyond all Question, I hesitated in prosecuting a Man whom I knew I should ruin if I proceeded against him.

755. Did not Mr. Butler propose or second Mr. Ball at the Election, when he stood against Mr. Hutchinson?

Mr. Butler was in the Court House, and there was a Delay with regard to the proposing of Mr. Ball, in consequence of the Gentleman who was to have proposed him not coming into the Court House, it was so crowded.

756. Mr. Butler therefore stood in his Shoes, and proposed Mr. Ball?

It was then suggested that another should propose Mr. Ball, and some Observation

Observation from the Mayor induced Mr. Ball's Law Agent to request that some Person near him would propose Mr. Ball without Hesitation ; and on that Occasion Mr. Butler did propose Mr. Ball.

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757. Were you in Court ?  
I was.

758. Advocating Mr. Ball's Interest ?  
Mr. Ball was returned, I believe, on that Occasion without a Contest.

759. Did he recommend you as an Assistant Commissioner ?  
I have no Knowledge that he ever did, but if I had called upon him to do so, I believe that he would have done so.

760. There is a Letter before the House stating that Mr. Ball did apply on your Behalf ; you never were aware of that ?  
I never had any personal Knowledge of it.

761. Did you ever see that Return in the Office, or a Copy of it ?  
I have no Recollection of having seen it, but it is possible.

762. Have you seen a Copy of the Return in the Poor Law Office or elsewhere ?  
I have no Recollection of having seen it, but if the particular Document were brought under my Consideration I should at once be able to give a direct Answer to the Question.

763. Have you heard now for the first Time that Mr. Ball recommended you ?  
I have no Doubt that Mr. Ball mentioned me.

764. Have you heard now for the first Time that Mr. Ball recommended you ?  
No, not for the first Time ; certainly not.

765. Did you ever apply to Mr. Ball to give a Recommendation in your Favour ?  
Certainly, I did.

766. Do you know the Fact of Mr. Butler having acted as Agent upon the Elections when Mr. Ronayne stood against Mr. Bagwell for the Borough of Clonmel ?  
I have no Recollection that he did.

767. Did you ever see or hear the Evidence given before the Committee of the House of Commons upon the Subject of the Clonmel Election ?  
I both saw it and heard of it, but I do not recollect the Circumstances of it.

768. Have you not read Mr. Butler's Evidence upon that Occasion ?  
It is likely that I have, but I cannot recollect the Particulars of it ; I took no Share in the Election, and therefore, perhaps, the Impression of it may be less perfect on my Mind.

769. You asked Mr. Ball to recommend you as Assistant Poor Law Commissioner, you were understood to say ?  
Certainly ; I asked him.

770. Did he promise to recommend you, or give any satisfactory Answer ?  
Mr. Ball always gave me to understand that any Benefit he could do for me he would do.

771. Did he give you a favourable Answer ?  
Yes.

772. What Answer ?  
That he would apply for me if his Influence would be of any Use.

773. And yet you have stated that you have no personal Knowledge that he did apply ; what do you mean by personal Knowledge ?  
The Existence of any Document to that Effect.

(414.)

774. But

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774. But you have a Suspicion that he did apply ?

I have no Doubt that he did ; my Belief is that he did, but I only referred to Documents.

775. Having been aware that Mr. Butler had taken so decided a Part in the Election of Mr. Ball, he having attended political Meetings in Mr. Ball's Interest, and having acted also in Mr. Ronayne's Interest in the Clonmel Election, how could you recommend Mr. Butler to the Poor Law Commissioners, as being a Person who had no political Connexions in the Town of Clonmel, for the Office of Returning Officer ?

In the first place I did not consider Mr. Butler at the Time as being an active political Character ; in the next place, I never recommended him as a Person who was not connected with Politics, and I only recommended him or rather introduced him to the Assistant Commissioners, leaving them to judge for themselves, as the Wording of my Note of Introduction will show.

776. The Commissioners, in their Letter of the 18th of March 1839, stated that they were particularly desirous to have Persons of no political Connexions as Returning Officers, and that from the Inquiries they had made they considered that Mr. Butler was not of any political Party in that Town ; did they apply to you for that Fact ?

There was no Document of mine before the Poor Law Commissioners at that Time, that I am aware of ; the Document that I gave (if your Lordships will permit me to mention it) in favour of Mr. Butler, and the only one that I gave previous to his Appointment, was that Note of Introduction on the 9th of February, I think ; and that Document, I believe, never came before the Poor Law Commissioners until after Mr. Butler was appointed. The Commissioners appointed him on the Recommendation of Messieurs Hancock and Hawley, without any Reference whatever to my Note of Introduction to Mr. Hancock.

777. You say that it was without any reference to your Note of Introduction ; you mean that it was independent of your Introduction ?

Independent of my Introduction. In reference to a former Question regarding Mr. Butler's Insolvency, I would take the liberty of stating to your Lordships that had I heard that Mr. Butler was an Insolvent or a Bankrupt, or had compounded with his Creditors, most unquestionably I should not have introduced or recommended him to Mr. Hancock for that Situation or any other connected with the Poor Law Commissioners ; but I do believe at this Moment that I am in possession of Documents, in which I place very great Confidence, from which it could be shown that Mr. Butler never was a Bankrupt, never was an Insolvent, and never compounded for a Shilling ; and further, I know that he has Property ; and under those Circumstances I am still strongly under the Belief that Mr. Butler never was under the Circumstances that are alluded to ; that is my Belief.

778. You will not swear that ?

I cannot swear it, but that is my Belief.

779. Do you wish the House to understand that you swear you did not know, although you were intimately acquainted with Mr. Butler for Twenty-seven Years, that he compounded with his Creditors, and that he never paid the Composition ?

I do swear that ; and I swear further, that I do at this Moment believe that he never did compound.

780. Do you believe that such a Circumstance could have occurred without your Knowledge, you being acquainted with him so intimately and residing in the same Town ?

It is possible that it may have occurred ; I will not state that it did not occur, but I state my Belief that it did not, and I will add Documents and Letters in corroboration of it. When Mr. Stanley informed me, in the Office Three Weeks ago, that he had heard Mr. Butler was an Insolvent or a Bankrupt, or not in good Circumstances, as made it my Duty to write to Clonmel to ascertain the Fact, as far as it could be ascertained, I wrote down to Mr. Butler himself, and I wrote to a Gentleman of as much Veracity as I know residing in the Town. I will, if your Lordships permit me, read the Letter of that Gentleman and give his Name.

781. What Answer did you get from Mr. Butler?

That he never was insolvent or a Bankrupt, or compounded for so much as a Shilling with his Creditors; that he retired from Business with some Property; that he is a £50 Freeholder in the County of Tipperary, and has been for many Years; and I believe those to be the Facts.

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782. Did your other Informant give you the same Information?  
Precisely.

783. Do you believe that Mr. Butler is a £50 Freeholder in the County of Tipperary?

I believe it, from the Statement my Friend made to me.

784. Are you aware that of the Property on which he resided the Lease has expired, and the Property has fallen to Mr. Bagwell?

No, I am not.

785. What was his Business?

He was carrying on Business extensively in the Woollen Trade; he was a Shopkeeper extensively, and in that Business he held a good deal of Land; not a small Farmer. He still holds, or did lately hold, a good deal of Land; he retired from Business about Three Years ago, and still continues a Farmer. Those are the Circumstances under which I knew him.

786. Will you swear that he held Ten Acres of Land in his own Hands at the Period you mention?

I always understood that it was a Joint-tenancy with his Brother and Uncle.

787. Are you alluding to the Property of which he was Trustee, or to other Property?

I am perfectly unacquainted with either the Farms or the Property; but I firmly believe that he was for many Years in possession of a considerable Quantity of Land, either individually or in conjunction with his Brother and Uncle.

788. Then you will not swear positively, from your own Knowledge, that he held in his own Hands Ten Acres of Land?

I will not. I am not aware of the Tenure under which he held, and therefore I cannot.

789. What do you call intimate Acquaintance with a Man for Twenty-seven Years?

He was in the habit of dining with me frequently, and I was in the habit of dining with him frequently; and I was in the habit of meeting him in Society in many Places. I was in the habit of attending his Family professionally, and I was in the habit of making Purchases from him.

790. Did you know him well enough to talk with him about his private Concerns?

I knew him well enough for that; but it never did happen that we did talk over his private Concerns.

791. Did he ever tell you why he retired from the Woollen Trade?

He did; he told me that he retired from it in consequence of the Trade having gradually declined. That I know to be a Fact in the Town of Clonmel; there are considerable Mutations in that Trade in the Town.

792. He did not retire from having made Property in that falling Business?

I am of opinion,—I have heard and I do believe, that he had made Property in that Business; but that the Business gradually declined, and therefore that he retired from it.

793. Is he now in easy Circumstances?

I do not know what his Circumstances are; not affluent, I am sure. If I might take the liberty of mentioning a Circumstance which throws Doubts upon my Mind that he ever was insolvent or under those Difficulties, I would mention this: on his Retirement from Business I owed him a running Account, as it is called, and I went to him and paid it to him, and he paid me some

(41.4.)

Y

Fees

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Fees for my Attendance on his Family. Since Mr. Stanley spoke to me about his Insolvency, that Act occurred to me as unlikely if he were insolvent or had been a Bankrupt.

794. Do you swear that he might have made a Composition with his Creditors, and yet you might not have known it?

I have no further Knowledge of it; it is possible he might have made a Composition.

795. And that that could be done without your Knowledge in such a Place as Clonmel?

I believe it. I was not a Person very likely to make Inquiries about commercial Matters, or to hear much about them.

796. You were in the habit of dining with him, and he with you?

Notwithstanding that, it was very possible that I did not know much of his pecuniary Affairs.

797. You visit a good many Families in Clonmel, do you not?

Yes.

798. Do Persons in Clonmel talk of their Neighbours Affairs as they do in other Places?

It is very likely.

799. Did you then never hear any Suspicion of Mr. Butler's Solvency?

Upon my Oath I never heard that he had compounded with his Creditors, or had been an Insolvent or Bankrupt.

800. Did you ever hear that he had been in danger of that, and that that was the Reason of his Retirement from Business?

I did not; I knew that he was not in the same affluent Circumstances, or, in other Words, that his Profits were not so considerable as they had been when his Business was much more extensive.

801. Did you ever hear from your Neighbours any Ideas thrown out that Mr. Butler was not in a flourishing Way of Trade?

I knew he was not in a flourishing Way of Trade.

802. Some People imagined, perhaps, that it was likely that he might be a Bankrupt?

I do not know what they might have imagined; I cannot say; I have no Recollection of having heard it.

803. Did you ever hear Persons mention the Probability of that?

Never the slightest Allusion to it 'till about Three Weeks ago, to the best of my Recollection; it is a long Period to remember; I can only speak to the best of my Recollection. When I did hear it, it came on me with considerable Surprise.

804. During the Twenty-seven Years that you have resided in Clonmel and the Neighbourhood, especially the last Sixteen Years, have you ever been long away from Clonmel at any one Time?

I was Eight Months away at one Time, in 1824, and for Three or Four Months away Two or Three other Times.

805. If the Trial which was alluded to of Burke versus Butler took place within Nine or Ten Years you must have been cognizant of it, residing in the Town?

Certainly, of the Trial; but not of the Circumstances of the Trial.

806. But having heard of the Trial, did you not inquire, or did you not hear, that a Verdict of 500*l.* was given against Butler?

Yes; I believe there was a Verdict given against him.

807. Are you not sure of that?

I cannot be certain of it, more than my Belief. I was not present at the Trial; I saw no Record of it; but I believe there was a Verdict against him.

808. Did Butler and you never converse respecting the Trial?

Never.

809. Though

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809. Though you were so intimately acquainted with him, you never conversed upon the Subject?

I think it often happens that Acquaintances will not talk on Matters of that Kind; it was a sore Point with him, on which he had to pay 500*l.*

810. Then if you avoided it because it was a sore Point, you were aware he had to pay 500*l.*?

I was aware that there was a Verdict against him.

811. How did you know the Fact?

From Rumour.

812. Do you mean to say, that, being intimately acquainted with him and knowing that there was a Verdict against him for 500*l.*, for Breach of Faith and Trust, that you never read the Report of the Trial?

I do not know that there was a Breach of Faith and Trust; but I do recollect that there was a Verdict against him.

813. But was not that single Circumstance of hearing of a Verdict against him for 500*l.* enough to arouse your Curiosity and induce you to read the Trial?

I have no Recollection of having read it, but the Trial I recollect, and the Circumstances.

814. You know nothing of the Particulars?

I thought it was about a Farm that was held between the Two Brothers.

815. Did you understand the Trial to be of a civil or criminal Character?

A civil Character.

816. Had it been of a criminal Character you might, perhaps, have attended more to the Circumstances?

His moral Character might have been affected.

817. If it had been a Trial of a criminal Character the Verdict would not have been for 500*l.*?

No.

818. Do you state that in your Opinion Mr. Butler was not a Partizan of the Radical Party in Clonmel?

I do; and I go further. I say that his own Party, the Reformers, doubted very much his being more than a very luke-warm Person for many Years.

819. Notwithstanding his having been Agent in Mr. Ronayne's Election, and having been present at those Dinners of Mr. Ball's, you considered him a luke-warm Partizan?

I have no Knowledge of his having been Agent in any Election, but I have a perfect Knowledge that several of his Party in the Town of Clonmel considered him, so far from being an active Partizan, as a very luke-warm Reformer.

820. Were you then in the Confidence of that Party?

I voted with them on the Occasion of Mr. Ball's Return.

821. Do you think Mr. Butler's Application to Mr. Ball proves him to have been a luke-warm Party in the Cause?

In his own Opinion I am sure it does not, but I alluded to the Opinions of others.

822. Have the goodness to state what you recollect of that Trial in which Mr. Butler was concerned?

I should find it very difficult to state more than that I recollect that a Trial took place between Mr. Butler's Brother and him, on the Return of his Brother from America, I believe, and that there was a Verdict against him; the Particulars I am utterly unacquainted with.

823. Were you at the Trial?

No, I was not.

824. Did you know what was the Verdict in that Case?

I knew there was a Verdict and Damages against him for a particular Sum; what Amount that was I was ignorant of.

(41.4.)

825. Knowing



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825. Knowing that there had been a Trial between Mr. Butler and his Brother-in-Law respecting Land, and that the Verdict had gone against him, which then you knew, do you think you were justified in saying that he was trustworthy, without making any further Inquiries upon the Subject?

I do consider that I was perfectly justified in speaking of him from my own Knowledge and Belief, for it might have turned on a Point of Law, without its being a Matter of Integrity at all. I am so totally unacquainted with it that I only put the Matter hypothetically. It might have been so.

826. Have you any Recollection in what Year this Trial was?

I have not.

827. Do you believe if you had been employed by the Commissioners, with your Knowledge of Clonmel, to find a proper Person as Returning Officer upon the Occasion on which you recommended this Gentleman, that you could have found a Person less deserving the Character of a Partizan than that Gentleman was?

I do believe that he is not deserving the Character of a Partizan. I do believe that I could.

828. The Question is this: do you believe, from your Knowledge of Clonmel and the State of Parties in that Town, that it would have been easy to have discovered a Person less deserving the Character of a Partizan than Mr. Butler?

There are Persons in Clonmel, certainly, who are not considered so much as Politicians, and therefore I consider that I might find Persons in Clonmel who are considered less in the Light of Politicians or Partizans than Mr. Butler.

829. What is the Extent of the Union of Clonmel?

It is a Population of 36,000.

830. The whole Union?

Yes; and an Area of about 50,000 Acres, rather more. The Population is about 36,000 to 40,000.

831. Irish or English Acres?

They are all Statute Acres.

832. You have stated, in the early Part of your Examination, that Party Spirit ran very high in Clonmel, and that it would not have been easy to find People who were not Partizans on the one Side or the other. The House wish to know whether, when you say you could have found a Person that was not so much a Partizan as Mr. Butler, you could find a Person equally fitted for the Office for which you had recommended him?

Yes, I am of opinion that I could; it was possible, I am sure.

833. You stated that you thought it was possible that the Grounds of the Law-suit going against Mr. Butler, of which you were not aware, might have been legal Points, not involving his moral Character; if that was the Case, was there any Reason why you should not have made further Inquiry before you recommended him as to what those Facts were, since you were cognizant of the Trial having taken place, and the Verdict having gone against him?

I humbly submit to the House, that having stated that I have no Recollection whatever of the Circumstances of the Trial, and that I was only aware that there was a Trial and a Verdict, I feel it impossible to give any further Opinion on it; but when called on by him to give an Introduction to Mr. Hancock, I did not feel it necessary to revert to the Trial, or to make any Inquiry respecting his Conduct in reference to it, having known so much of him in other respects.

834. Did you ever know a Clerk of his named Dennis Welsh?

I did.

835. Who has since been appointed a Chief Constable of Police?

I know he has.

836. Did it ever come to your Knowledge that when Butler retired from Business he paid Welsh's Salary that was due to him by making over to him a House which Butler possessed?

I did not; I have no Knowledge whatever of the Circumstances.

837. You have been asked as to Persons in Clonmel who are not Partisans ; do you know the Gentleman to whom a Letter was addressed, Mr. Fennell ?

I do.

838. Are there Two Brothers of that Name ?

I think there are Three.

839. Should you reckon this Mr. Fennell a political Partisan or not ?

I should reckon Mr. George Fennell, the Gentleman in question, as much a political Partisan as Mr. Butler ; my Meaning is, that the one would exercise any Privilege that he might have on the one Side, and the other on the other ; I do not mean that either of them is violent ; I do not mean to say that Mr. Fennell is.

840. What Reason have you for saying that Mr. George Fennell, the High Constable of the Barony of Iffa and Offa West, was a political Partisan ?

I have not said a Partisan, but I believe that Mr. Fennell is just as much politically disposed on the one Side, as Mr. Butler is on the other.

841. Was not Mr. George Fennell Four Years ago a Clerk in the Bank of Ireland ?

He was.

842. Do not the Bank of Ireland make it an invariable Rule not to permit any of their Officers to take a Part in Politics ?

Whilst they are in the Bank of Ireland that is the Case.

843. Has Mr. Fennell a Vote ?

I am not aware that he has.

844. What Ground have you for saying that he has strong Feelings in Politics ?

My Acquaintance with him induces me to believe that he is as much disposed to use any political Franchise or Privilege he may have as Mr. Butler is.

845. Did you ever hear of his attending a political Meeting in your Life ?

I have no Recollection of it.

846. Did you ever hear of such a Thing ?

No ; I have no Recollection of it.

847. You mean to say that you are well acquainted with Mr. Fennell's Opinions ?

I do ; I believe that his Opinions are such as I have stated.

848. He is a young Man ; did you ever hear any thing in the slightest Degree prejudicial to his Character ?

Never ; he is a very respectable Gentleman.

849. But you have heard of Mr. Butler attending political Meetings ?

I beg to be understood that my Belief is, that Mr. Fennell is just as much disposed to use any Franchise that he may possess as Mr. Butler.

850. From what do you judge ?

From my Acquaintance with him, and from my general Knowledge of him.

851. In his Situation of High Constable of the Barony, a very important Office, for which he gives large Security, did you ever hear of his acting as a political Partisan ?

I never heard of any thing prejudicial to his Character. (*The Question was repeated.*) I did not ; but if your Lordships will allow me to state, when called upon to make a Return to the Poor Law Commission of Documents necessary for Information of a Portion of the Clonmel Union, his Return was a very insufficient one, and not such as showed Alacrity to give the Assistance which, in my Opinion, he should have given.

852. Was that after the Appointment of Butler ?

No ; it was previous to it ; it was in January 1839.

853. Had that Fact any Influence upon you when you withheld your Recommendation from Mr. Fennell and gave it to Mr. Butler ?

Mr. Fennell never, to the best of my Recollection and Belief, applied to me for any Recommendation.

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854. Mr. Fennell, in his Letter of the 15th of February 1839, refers the Commissioners to you for a Knowledge of his Character, as being a fit and proper Person to be appointed Returning Officer?

I am aware that he does; I have read that Letter.

855. Did you ever hear that Mr. Fennell did not perform the Business of his Office to the Satisfaction of the Grand Jury?

No, I did not.

856. Did you ever hear of his being in arrear of any Portion of the many Thousands that he collects?

No.

857. Did you ever hear of his taking any Part in Politics?

Never.

858. Did you ever hear of his voting?

Never.

859. Do you know that he has a Vote?

I before stated that I do not know that he has a Vote.

860. Do you then still continue to think that Mr. Butler was no more a political Partisan than Mr. Fennell was?

To that Degree, that the one possesses the Franchise, and does use it, and the other does not; I make that Distinction. I believe the Disposition is the same.

861. Would it not have been in Mr. Fennell's Power any Day in any Week to have become a Rent-charger, and have obtained a Vote at once?

I do not know.

862. Do not you believe so?

I do not believe so; it is possible. I will not state my Disbelief or my Belief of it. Mr. Fennell's Father was in difficult Circumstances as regards his Property; that I know; or, at least, so I have understood for many Years.

863. Have you any Reason for believing that Mr. Fennell's Father, though he might not have been a wealthy Man, yet had not Power to grant a Rent-charge to his Son to enable him to vote?

I have not any Reason to believe that; I only state that I do not know it.

864. Political Meetings are very frequent in Clonmel and in the County of Tipperary, are they not?

They are.

865. Did you ever hear of Mr. Fennell attending any?

No, I never did.

866. Have you heard of Mr. Butler attending such Meetings?

Yes, I have.

867. Have you seen him attending them?

Yes.

868. Frequently?

I should say I have,

869. And yet you think Mr. Butler was nothing more of a political Partisan than Mr. Fennell, having admitted that one has attended political Meetings, and having stated that you do not know of the other having attended political Meetings at all?

I allude to the Dispositions of the Parties. (*The Question was repeated.*) Yes, I do admit that Mr. Butler, under the Circumstances, is to be considered more of a political Character in that Light.

870. And those are the Circumstances?

Yes, certainly.

871. Then you consider Mr. Fennell would have been quite as fitting a Returning Officer, to say the least of it, as Mr. Butler?

I do.

872. You

872. You also are aware that there was a Recommendation that the Barony Constable should be the Person appointed to that Office?

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I am not aware that there was a Recommendation to that Effect; but, when Circumstances admitted of it, I know that the Poor Law Commissioners and the Assistant Commissioners were anxious to carry it out.

873. What were the Circumstances which in this Case did not admit of it?

The Circumstances were, that Mr. Hancock and Mr. Hawley had recommended, or had promised to recommend, Mr. Butler previous to Mr. Fennell's Application. That was one; and I only infer the second, that Mr. Fennell, not having complied with the Request which was made of him, to give the County Cess Return in the prompt Manner and in the Mode in which it might have been expected, that they might have been thereby indisposed to appoint him a Returning Officer.

874. When did Mr. Hancock and Mr. Hawley promise Mr. Butler?

I cannot state the Day on which they promised him; but I know the Date of the Return that they made to the Poor Law Commissioners.

875. Are you aware when the Letter of Messrs. Hawley and Hancock was received at the Poor Law Office?

I know by the published Documents.

876. On what Day was it received?

It is stated to have been dated on the 16th, and to have been received on the 17th or 18th.

877. The 17th was a Sunday?

Yes.

878. It was received therefore on the 18th?

Yes.

879. When was Mr. Fennell's Letter dated?

The 15th.

880. How then can you state that it came after Mr. Hawley and Mr. Hancock's Recommendation of Mr. Butler?

I did not state that, or I did not mean to state it. I will explain, if your Lordships will allow me. I meant to say that Mr. Hancock and Mr. Hawley's Promise to recommend him had taken place previously to Mr. Fennell's Application to the Office.

881. Whom did they promise to recommend?

Mr. Butler.

882. You did not know that at the Time?

I have Reason to believe, and I do believe, that I myself was cognizant of their having promised to recommend Mr. Butler for the Situation before the 16th.

883. In point of fact, were you cognizant of that?

It is my Belief, though I have no Documents on the Subject, that either Mr. Butler or Mr. Hancock wrote to me after Mr. Butler had waited on Mr. Hancock, stating that on making Inquiries, and speaking with Mr. Butler, a Promise was given him to recommend him.

884. Why was not that Recommendation forwarded at the Time to the Commissioners?

It never is, till the Period when the Poor Law Commissioners call on the Assistant Commissioner to recommend a fit and proper Person, and that is frequently, in some Cases, a Month or more after the Period when the Returning Officer is selected by the Assistant Commissioner.

885. Which of the Parties wrote to you?

I have stated that from the Documents I have in my Possession I believe that Mr. Hancock or Mr. Butler wrote to me, but I have not the Date, and I do not recollect which.

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886. Were

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886. Were you in Dublin on the 12th of February and the Remainder of the Month?

I will be able to tell your Lordships by reference to my Diary. [*The Witness referred to his Diary.*] On the 12th of February I was not in Dublin.

887. Where were you?

In the County of Meath, at Ashbourne.

888. When did you return to Dublin?

On the Evening of the 15th.

889. The Day before the Arrival of Mr. Fennell's Letter to the Board?

Yes.

890. What Office did you then fill?

That of Assistant Poor Law Commissioner; the Office I have the Honour of holding now.

891. What Duties had you in the Office particularly?

I had no Duties in the Office except that I was rather under Training by Mr. Earle, who was Local Assistant Commissioner in Dublin, and who was my senior, and was instructing me, and shortly before I was commencing to form Unions myself. I was forming the Union of Dunshaughlin and other Unions in the County of Meath.

892. Do you recollect the Letter of Mr. Fennell coming to the Office?

I have no Recollection of having seen such a Letter till I saw it printed; but it is possible I may have seen that Letter on the 16th, for I was in the Office on the 16th.

893. Did you ever hear any Conversation in the Office about the Appointment of Returning Officer for the Clonmel Union?

At this Distance of Time I cannot bring to my Memory that there was such a Conversation, but it is not at all unlikely. It is likely that Mr. Earle or Mr. Stanley might have spoken to me on the Subject, from my Knowledge of the Locality.

894. Are you certain that you did not, from your own Knowledge, tell the Clerks and others in the Office, that you knew the Appointment had not taken place?

I am certain I did not, for I am certain I could not have done it; the Thing was quite impossible.

895. Do you mean to say that you neither told Mr. Wodsworth nor Mr. Stanley, nor any other Person in the Office, that to your Knowledge the Person selected for the Office of Returning Officer of the Clonmel Union was Mr. Butler?

I am sure I could not have stated any such Thing.

896. You were not acquainted with the Fact yourself at the Time?

All I could have been acquainted with,—and I have admitted that it is possible I might, and think it likely I might,—is the Fact, that Mr. Hancock and Mr. Hawley had promised Mr. Butler that they would recommend him for it; and were I in Possession of that Information, and I think it likely that I was, it would have been my Duty to mention it at the Office, and I did mention it if I knew it,—I am confident I did,—that Mr. Hancock and Mr. Hawley had promised to recommend Mr. Butler; if I was informed of that by either of the Parties I am confident I did state it at the Office; it would have been my Duty to do so, and I am confident I did.

897. Where was Mr. Earle at the Time?

In the Office.

898. Did you see Mr. Hancock's Letter with Mr. Earle's Indorsement upon it?

I do not recollect; it is possible I may. So many Matters come before us,  
and

and the Matter at the Time was of so little Importance that it would readily have escaped my Memory.

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899. Did you consider the Appointment of your Friend Mr. Butler of little Importance?

It was Mr. Fennell's Letter that I was directing my Answer to.

900. But Mr. Fennell's Application of course involved the Appointment of Mr. Butler?

I do swear that I considered his Appointment as of very little Importance.

901. It is stated throughout the Evidence of Mr. Stanley, that you were the primary Instrument of Mr. Butler being appointed Returning Officer; is that the Fact?

If Mr. Stanley meant that I was the Person who introduced Mr. Butler to Mr. Hancock, he was right; but if it be meant further than that, it is not correct. I had no further Share in that Matter of Mr. Butler's Appointment than that Note of Introduction that I gave him to Mr. Hancock.

902. Did you receive this Letter from Mr. Hancock on the 12th February, stating, "Mr. Bianconi recommends most highly Mr. Butler for this Appointment of Returning Officer for Clonmel Union. He is the Nephew of Dr. Slattery, the Catholic Archbishop of Cashel, the only Archbishop of Cashel." (Signed) "W. J. HANCOCK."

No; I never received it. That Letter was not returned to the Office for more than a Year—for a considerable Period—or rather that Note—it was not a Letter. I take the liberty of humbly explaining that it was a Memorandum of Mr. Hancock's on the Back of the Note of Introduction that I gave Mr. Butler to him, and it only came up to the Office after a considerable Period, and long after Mr. Butler had been appointed.

903. When did you see it?

I only saw it about Three Weeks ago.

904. Did you consider your Introduction to Mr. Hancock as an Introduction, and not a Recommendation?

Partly each, for I stated in it that I considered him trustworthy.

905. You intended it as a Recommendation?

I do admit that I did; but still I would take the liberty of humbly observing that the wording of it shows that I did not mean to press Mr. Butler, for I begged Mr. Hancock to judge for himself, or some Words to that Effect.

906. Did you give that Letter of Recommendation without reference to who might be the other Candidates; whether there might have been Gentlemen offering themselves who were no political Partisans, and who were more fitted for the Office?

Mr. Hancock and Mr. Hawley had been longer upon the Commission than I had, and had much better Acquaintance with the Details than I had, and I considered that in sending them this Letter they were fully at liberty, and would exercise it, to find the best Returning Officer for the Union without any reference to my Recommendation. I considered the Note of Introduction as a Matter of course, being asked for it. Had Mr. Fennell written to me for a similar Letter of Introduction he should have had it just as soon as Mr. Butler had.

907. Was no Communication had with you respecting Mr. Fennell's Character, he having requested that you might be referred to upon that Subject?

I have no Recollection of it; it is possible that Mr. Earle and Mr. Stanley, on the 16th and 18th, on which Days I was at the Office, might have asked me about Mr. Fennell.

908. What did you state when they asked you?

If they did ask me I must have stated what I knew, that he was a respectable Man, but I have no Recollection of it.

909. You have stated that Mr. Fennell's Return was incomplete with regard to the Cess of his District?

It was unsatisfactory, and not that which, in my Opinion, he should have given;

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given; and I will take the liberty of observing, that had I been Assistant Commissioner for Clonmel, after having seen Mr. Fennell's Answer to the Return that was asked for, I would not have recommended him as Returning Officer.

910. Then you did not know of that at the Time you were applied to respecting him?

I did not remember it; it could not have influenced me.

911. Are you aware that these County Cesses are almost always, if not always, incomplete?

I know it from sad Experience; there have been Difficulties created in the forming of Unions in consequence.

912. In being calculated at so much per 100 Acres?

I am aware that the Cess is collected in a Variety of Ways in different Places.

913. The Average is seldom or never correct?

My Observation refers more to the Mode in which Mr. Fennell omitted to make the Return than to the Difficulty which he would have had in making it; but it had no Influence whatever in reference to any Observation that might have been made by me on the 16th or 18th respecting him.

914. Did you feel any Surprise that Mr. Butler, a Gentleman with whom you had been so long acquainted, should have sought an Office that appeared so insignificant in itself?

No, it did not; for he was unemployed at the Time; and I had many Applications (I remember many) from Gentlemen in far better Circumstances and much more respectable than Mr. Butler.

915. Did Mr. Butler know what the Amount of the Salary was?

He did not; I believe he did not at the Time; I am sure he did not.

916. Did he express any Surprise when he found it amounted to only 10*l.* a Year?

I believe it was 20*l.* or Twenty Guineas.

917. 20*l.* or Twenty Guineas at the Time when Mr. Butler received the Appointment?

I believe so.

918. Do you recollect having had any Conversation with Mr. Earle in the Office between the 15th and 18th with respect to Mr. Butler's Appointment?

I have no Recollection of it, but it is very likely that Mr. Earle or Mr. Stanley may have spoken with me upon the Subject, but I have no Recollection of any particular Conversation that occurred.

919. Mr. Stanley has stated, "that prior to the Appointment of Mr. Butler he was selected for the Office, in consequence of the Recommendation of Mr. Phelan;" have you any Doubt of that being correct?

I have explained the Circumstances under which I would doubt it; if the Note of Introduction be considered the primary Step or the sole Means of recommending Mr. Butler, I would have been the Person that obtained that Appointment; but Mr. Hancock and Mr. Hawley, it appears, as was their Duty, made Inquiries regarding others, and it was on their Recommendation and their Responsibility that he was recommended to be appointed by the Poor Law Commissioners, and therefore I could not have been the Means of appointing him.

920. Mr. Stanley says, in answer to Question 306, "I abide by this, that Mr. Phelan had recommended Mr. Butler to the Appointment, and that he was primarily instrumental in having him appointed the Returning Officer?"

I admit that that follows of course.

921. "That is my Belief, that he recommended him to the Assistant Commissioners, and that I conceived they were moved primarily, and, perhaps, principally, by the Recommendation he had given." Do you believe that to be the Fact, or do you not?

I have explained the Circumstances; I am unable to give any other Explanation of them.

922. Had

922. Had you any Correspondence with any Persons in Clonmel, or Conversation with any Person in Clonmel, or in Dublin, who recommended or wished you to interest yourself in favour of Mr. Butler's Appointment?

I have no Recollection that I had.

923. But you will not say to the contrary?

No, I cannot say to the contrary.

924. Did Mr. Bianconi ever speak to you upon the Subject?

I have no Recollection that he did.

925. Will you swear that he did not?

I will not.

926. Did any other Persons?

I have no Recollection of any other.

927. Either in Writing or Conversation?

Either in Writing or Conversation.

928. But you will not swear that they did not do so?

No, I will not; a Person living in Dublin will frequently meet Persons from Clonmel, and it is possible that under the Circumstances they might have spoken with me on the Subject.

929. But previous to his being appointed?

So I understand it.

930. Of what Religion are Mr. Butler and Mr. Fennell?

Mr. Butler is a Roman Catholic; Mr. Fennell's Father, I believe, was one of the Society of Friends; I am not sure what he is himself; I rather think he is one of the Society of Friends.

931. He is either a Protestant or a Quaker?

Either.

932. Do Members of the Society of Friends take much Part in Politics in Clonmel?

They have taken as active a Share as any others in Clonmel; they take a very violent and very active Share, many of them.

933. You were asked as to the Value of the Office of Returning Officer, and you stated that you believed Mr. Butler was not aware of the Value of it when he sought the Appointment; is the Appointment desirable on any other Grounds than that of a pecuniary Nature?

It was considered by many as a Mark of Respectability and Confidence or Trust reposed by such a public Authority as the Poor Law Commissioners, and many seemed to be proud to be appointed, independently of the Salary; that was my Opinion.

934. Does it give to the Person that holds it any Influence in the Board of Guardians?

Not the slightest, when he exercises his Duties faithfully.

935. Do you believe that Mr. Butler had in view the Appointment of Valuator to the Union at the Time he obtained the Appointment of Returning Officer?

It is possible that he might have had in view the Appointment of Valuator, but I do not believe that he had, and if he had I would not have recommended him to that Office, but I do not believe that he would have made the Office of Returning Officer auxiliary to that.

936. He was in the first instance, was not he, named Valuator?

When the Board of Guardians came to elect Valuators he was appointed the Valuator for the Town of Clonmel.

937. After that Appointment was disallowed his Brother-in-law was appointed?

He was.

938. Was not there a third Appointment?

His Nephew was appointed.

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939. What

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939. What was his Name?  
 Patrick Wall was his Brother-in-Law's Name, and Patrick O'Brien is his Nephew's Name.

940. Did you hear that Mr. Butler wished to be Master of the House of Industry, the Appointment of which is made by the Board of Guardians?  
 I never heard of it.

941. Did you ever hear Wall's Wife, who was understood to be a Relation of Butler's, was to be appointed the Mistress?  
 I have heard that Mr. Wall and Mrs. Wall were anxious to be appointed Master and Matron to the Workhouse.

942. To the Poorhouse?  
 Yes.

943. They were Relations of Butler?  
 The one is his Brother-in-Law, and the other is his Nephew.

944. What Relation is Mrs. Wall?  
 She is his Sister.

945. Do you suppose that Mr. Butler had any Object in being appointed Returning Officer beyond the Salary of £20 a Year?  
 I stated that it was considered a respectable Situation, independent of the Salary.

946. Is it not an exceedingly troublesome Situation indeed, when there is a Contest?  
 When they have a Contest, such as they have in Clonmel, it is very troublesome.

947. Was the Contest very serious in Clonmel at the last Election?  
 I believe it was.

948. Was Mr. Butler's Conduct impeached with respect to that Election?  
 I have not the Facts before me, and I was not the Superintendent or the Assistant Commissioner there, and I can only give my Belief from all I have heard; and I do believe that he discharged his Duties faithfully, and I did believe that he would do so when I recommended him, or when I introduced him.

949. You believe still at this Moment that he discharged his Duties faithfully?

I solemnly swear that I believe that he discharged his Duty faithfully, which was a very difficult Matter under the Circumstances; perhaps I might take the Liberty to add to the former Question, that when I learned that Mr. Butler and Mr. Wall were appointed Valuators, I rather advised, as far as any Recommendation of mine might go, with their Friends in Clonmel, with Butler himself, and with Mr. Wall, that they should not be Valuators; for I informed Mr. Butler and his Friends in Clonmel, that though I believed Mr. Butler to be a very fit and proper Person to discharge the Duties of Returning Officer, I considered him to be unfit for the Duties of Valuator, and that his Brother was so; that they were both unfit for the Office of Valuators for the Town of Clonmel. I humbly take the Liberty of stating that, to show that I was not influenced by any thing in recommending him as Returning Officer but the public Good.

950. In what Manner did you make that Statement?  
 To Mr. Butler and other Persons who, I thought, would have Influence in preventing the Board of Guardians from following up the Appointment.

951. In what Manner did you do it?  
 In Writing.

952. In the Return before the House respecting the Objections made to the Valuators the House do not see that Correspondence?  
 Those were private Notes that I wrote occasionally.

953. Did you communicate to the Commissioners upon the Subject?  
 No; not to the Commissioners; it was mere private Correspondence to  
 endeavour

endeavour to point out to Parties that I happened to be acquainted with that it would be better to have a professional Valuator than either Mr. Butler or his Brother-in-law, who were not acquainted with the Value of Land.

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954. To whom did you write?  
To Mr. Lacey, the Chairman of the Board. I am sure I did.

955. You were not connected with that Union?  
No.

956. You wrote that Letter from private Acquaintance?  
Yes, and to induce them to do that which I thought public Duty required.

957. Had you had any Communication upon the Subject with Mr. Bagwell?  
No; he never applied to me.

958. Who was it that informed you that there were Complaints made against Mr. Butler?  
It was known in the Office. I knew it in the Poor Law Office.

959. Did the Commissioners address to you a Letter in consequence of the numerous Complaints made against Mr. Butler, in the Month of May 1839, on the Subject of Mr. Butler himself?

The Commissioners requested me to report what I believed and knew of Mr. Butler; which Report I then made, and that is dated on the 23d of May, if I recollect right.

960. You state, "Gentlemen,—Having learned that Complaints have been forwarded to you against Mr. Butler, Returning Officer for the Clonmel Union, I take the liberty of informing you of such Circumstances as I happen to be acquainted with respecting his general Character and Habits, and his Appointment to that Situation." Is that the Letter you allude to as the Reply to the Questions put to you respecting Mr. Butler?  
That is the Letter I allude to.

961. Did they write to you a Letter?  
No; they merely verbally directed me to make a Report with respect to Mr. Butler,—what I knew of him, as I had been the primary Person to introduce him to the Commissioners.

962. Did not you speak thus: "I have been intimately acquainted with him for Twenty-seven Years; during the greater Part of that Time he was extensively engaged in the Woollen Trade, and conducted that Business very respectably—"?  
That was my Report.

963. Was not a Man of the Name of Davis charged by several of the Guardians of the Union at Clonmel with having put certain Persons in Nomination as Candidates for the Board of Guardians, and then having disavowed such Nomination?  
I understand that such a Circumstance did take place.

964. Did you not see all the Correspondence which took place at the Office on the Subject?  
I could have seen it if I pleased; but I was very much engaged, and I am sure I never read it all.

965. You read a good deal of it?  
I have seen it printed, and I am sure I saw some of the Correspondence also at the Office.

966. Having mentioned, in your Report of the 23d to the Commissioners, your having learned that Complaints had been forwarded to them against Mr. Butler, did you not then look to the Correspondence, and the Charges made against him?  
I am not aware at what Period the Correspondence in respect of Davis came before the Commissioners.

967. The Communications against Davis took place about the 23d of April, and continued during a Month, during which Period you were at Dublin, and

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wrote

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wrote this Report, dated Dublin, 23d of May; did you not inspect those Complaints?

No, I did not; it was not my Duty to do it, nor was it probably convenient to me to go over the Mass of Evidence; but I knew that Complaints had been made, and I stated that which I did on deliberate Consideration. I made that Report deliberately, after I knew it.

968. After you had seen the Documents, or some of them?

I knew there had been Complaints against Mr. Butler.

969. Did you ever see a written Disclaimer of Davis stating that he had not nominated certain Persons to the Office of Guardian?

I know that there was such a Document, and that there was an Investigation on the Subject, but I am not prepared to say that I saw it, or that I did not see it, for the Fact was, the Circumstance made very little Impression upon me at the Time; I had a Multiplicity of Business, and though I knew there were Difficulties occurring in the Clonmel Union, I could not give them that Attention which would enable me accurately to recollect the Circumstances.

970. Still you say that you wrote down to Clonmel to Butler and Wall and others?

That was long after, when the Board of Guardians had been formed, and the Valuation had been made.

971. How long after?

I am unable to state the Period; some Time in the course of the Summer.

972. The Correspondence begins on the 15th of April, so that it was not after that?

I alluded to the Periods at which the Valuators were appointed, and I think the Valuator for the Town of Clonmel was appointed a good while subsequent to the Valuator for the rural Portions of the Union; and I infer that that Period is a good deal subsequent, or somewhat subsequent, to the 23d of May, but I am not positive.

973. Had you not a Correspondence with Mr. Riall, the Mayor of Clonmel, on the Subject of those Complaints?

Mr. Riall did write to me, and I wrote to him on the Subject.

974. Where is that Correspondence?

I never kept a Copy, as I considered it perfectly distinct from the Poor Law Commission altogether.

975. Was not it on the Subject of the Complaint against Mr. Butler?

It was.

976. Then why was not it given in with this Return, which is a Copy of all Correspondence between the Assistant Commissioners and others relative to the Appointment of John Butler to the Situation of Returning Officer of the Clonmel Union?

The Communication to myself was rather made by Mr. Riall, I considered, in a private Capacity, as an Individual with whom he was acquainted; if it had been a public Communication, it would have gone into the Office.

977. Being a Communication from the Mayor on the Matter of a Complaint, did you consider that a private Communication?

I did; I kept no Copies, nor have I Mr. Riall's Letter.

978. Was that Letter directed to you at the Office as a Poor Law Commissioner, or was it addressed to you as a private Individual?

I understood it to be directed to me as an Assistant Commissioner of course; but more as a private Individual than otherwise.

979. Have you that Letter?

No; I have not kept either his Letter or Copies of my own; there was no Request on the Part of Mr. Riall, that I should apply to the Poor Law Commissioners upon the Subject.

980. Do you recollect the Purport of that Letter?

It was complaining of Mr. Butler.

911. Do

981. Do you recollect on what Point it was?

I am unable to particularize the Point; but there is an Impression upon my Mind, that it was something with regard to the irregular Distribution of the Voting Papers.

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982. By Butler?

By Butler's Messengers.

983. Complaining of that?

Yes.

984. Was the Letter headed "Private"?

I am unable to say.

985. Did you communicate the Letter to the Commissioners? Who was the Commissioner in Dublin?

Mr. Nicholls was the Commissioner, and Mr. Earle was the Assistant Commissioner.

986. Did you communicate it to Mr. Nicholls?

No; I am sure I did not.

987. Nor to Mr. Earle?

There was nothing of any Importance with regard to the Commission, while Mr. Earle was in the Office, that I did not communicate with him on; but there was much Correspondence, that frequently occurred—there were Communications to me with regard to other Unions not in my District, which I considered as mere private Communications. If I had considered them of such Importance as that they should be put before the Commissioners, I should have sent them to the Assistant Commissioners of the District. I have frequently done so, and then they would come before the Poor Law Commissioners in a regular Shape; but it was seldom that I spoke to the Poor Law Commissioners on the Subject of other Unions.

988. Did you send this Letter to the Assistant Commissioner?

No, I did not; I was aware that some Correspondence had come up from Mr. Riall with others, in a public Capacity, to the Poor Law Commissioners, and that confirms my View. I considered this as a private Transaction; the same Circumstances, or something of the same Nature, were stated in the public Documents.

989. Would it not appear to you as well deserving of Attention, the Letter coming from an authorized Person, such as Mr. Riall, who was Mayor of Clonmel, complaining as a public Officer, did it not appear to you that it ought to be laid before Mr. Nicholls?

He did not write to me as Mayor of Clonmel.

990. But he was Mayor of Clonmel?

Yes, he was.

991. Did it not appear to you proper to lay it before the Commissioner?

If that had appeared to me I should have sent it to the Assistant Commissioners, but for the Reason I have given I did not. I considered that the same Information had come to the Office in a legitimate Way; it was no Suppression of the Matter; the Commissioner had seen the same Thing.

992. What was the Occasion of your writing to the Commissioners what is styled your Report, dated Dublin, 23d May 1839?

I was directed by Mr. Nicholls to make a Report, stating what I knew of Mr. Butler.

993. Did not Mr. Nicholls communicate to you the Complaints, when he directed you to make a Report on the Character of Mr. Butler? Did he not show you the Correspondence?

I knew there were Complaints, and I knew the Nature of the Correspondence, I am sure; I did not read the whole of it, but I read enough to apprise me what the Substance of those Complaints was.

994. Did you find among those Complaints a Letter of Mr. Riall's?

No; but there were Complaints from Mr. Riall in connexion with others.

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995. Did

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995. Did they relate to the same Points?

Yes, substantially.

996. What was the Nature of Mr. Nicholls's Reference? Did he desire you only to state what you knew of Mr. Butler's Character?

To state what I knew of Mr. Butler.

997. You were not referred to specifically to report on any Complaints made against him?

No.

998. Was Mr. Bagwell's Letter of the 12th of March 1839, stating, "Upon minute Inquiries, I am given to understand that Mr. John Butler is a most unfit Person for the Office of Returning Officer in this Union," ever laid before you?

I am not aware that I saw it until I saw it in Print lately.

999. Are you sure you did not see it?

I will not say that I had not; but I have no Recollection of having seen it.

1000. Is it not singular that, when in May you were applied to on the Subject, Mr. Bagwell's Letter complaining of the Unfitness of this Man was not laid before you?

I know there was nothing laid before me with reference to the Report I was directed to make.

1001. Did no Communication state to you that such a Letter had been received?

I know there had been numerous Complaints made against Mr. Butler, and that the Report was requested, in order that I might state what I had known of Mr. Butler, and why I had introduced him to Messrs. Hancock and Hawley.

1002. Was Mr. Earle's Note on the Matter of Fennell's Letter ever shown to you, desiring the Clerks to acknowledge, and acquaint him that his Application would be considered when the proper Time arrived for selecting a Returning Officer for the Clonmel Union?

I have no Recollection that it was until I saw it lately.

1003. Did you ever hear of the Trial of Davis for Perjury?

I did.

1004. What was the Subject of the Perjury for which Davis was indicted?

It was respecting Nominations; the Nominations of particular Guardians.

1005. Did he not make an Affidavit that he never had signed the Nomination Papers, containing certain Names as Candidates for Guardians?

I have seen that stated in the public Prints.

1006. Was he found guilty?

I have heard that he was; I understand he was.

1007. Are you not sure that he was?

I am sure of it, as far as public Report states it.

1008. Did you never see a Report of it in the Paper?

Yes; I saw it in the Clonmel Paper.

1009. Did you not see that he was sentenced to Three Months Imprisonment?

I did.

1010. Then why did you say that you were not sure?

I distinguish between Facts I am acquainted with and what I know only by public or Newspaper Reports. I implied that I did know it as far as that Kind of Knowledge admits of Certainty.

1011. Was not it sworn on that Trial that Butler was the chief Means of inducing Davis to commit that Perjury?

I do not know; it may have been, but I do not know it.

1012. Did

1012. Did you not read the Report of the Trial?

It is very likely I did, but I have no Recollection of it.

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1013. Did it not strike you, knowing all the Parties so well as you had done for Twenty Years,—did not that Circumstance make an Impression upon your Memory?

The Fact is, so much Excitement prevailed on the Subject that I was not much disposed to trouble myself with regard to the reading of those Documents.

1014. That very great Excitement having existed, and you being the Person who had recommended Mr. Butler, ought you not naturally to have taken very great Interest in investigating the Truth or Falsehood of these Statements?

Very little, from knowing the Character of some of the Parties to whom it alluded.

1015. What Parties do you allude to?

I allude to Davis particularly.

1016. Are you aware that the Gentleman who filled up the Affidavit of Davis read it over to him, and was quite satisfied that Davis was thoroughly sensible of what he was about?

I have no Recollection that that was sworn; but taking for granted that it was, still I know Davis's Habits to have been so very bad for many Years I should hesitate in giving Credit to almost any thing with regard to Davis unless it was well verified.

1017. You know a Man of the Name of Shanahan, do you not?

I know Two Men of the Name of Shanahan.

1018. You know a Man of the Name of Flyn?

Yes.

1019. A Man of the Name of Crean?

I know Two Men of that Name.

1020. Are those Men referred to Men of Character and Propriety?

With the Exception of one, I think they are Persons of Character and Propriety; I would have some Doubt about one.

1021. From the Mass of Evidence you must have read on the Trial do you disbelieve the Facts sworn to by the great Body of Witnesses put forward on that Occasion?

I beg leave to state to your Lordships that I am not in possession of the Mass of Evidence which was read; but with regard to Davis and Flyn, I should place very little Confidence in any Statement made by either of them.

1022. That applies only to the Evidence of those Two Persons?

Davis was the Party that was on his Trial for Perjury, and Flyn was one of the Parties chiefly concerned, and who, I think, drew up the Affidavit, who was chiefly concerned in the having the Papers signed by Davis.

1023. Did you say that Mr. Flyn drew up the Affidavit?

I understood he was the Person chiefly concerned with regard to those Voting Papers.

The Witness was directed to withdraw.

The Witness was again called in.

1024. When the Complaints were made against Butler, and you were spoken to on the Subject of those Complaints by the Commissioners, you had a Letter from Mr. Pedder dated the 23d of May, which is about the Date of the Day upon which you were desired to make your Report, in which it is stated, "With respect to Mr. Lawrence Davis disavowing the Document, if he did so it was because he was compelled to do so, but we are ready, and would have proved, if you had condescended to allow us, that he did write it, and that even if he did not, Mr. Butler, after having published the List, the same being regulated in open Court, he could not withdraw them;" was that Letter of Mr. Pedder's laid before you at the Time these Complaints were made against Butler?

I have no Recollection that it was; it is possible I may have seen it, but I

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*D. Phelan, Esq.*  
22d March 1841.

have no Recollection that it was; but even if it had I should have made the same Report. I did but report that of Butler which I knew and believed, and which I still do believe.

1025. It has been sworn here by Mr. Stanley that after the Trial of Davis Mr. Nicholls's Confidence was extremely shaken in Butler; was any Communication of that Fact made to you?

No; Mr. Nicholls never stated that to me that I am aware of; I have no Recollection that he did.

1026. Are you sure he never did?

I am sure he never did.

1027. Did Mr. Stanley?

I have heard Mr. Stanley express Doubts about Butler latterly; but I do believe that Mr. Stanley laboured under a Misapprehension, and that that was in consequence of his supposed Insolvency or Bankruptcy.

1028. Were you in Dublin in the Month of May 1840?

I shall be able to inform your Lordship immediately. Does your Lordship wish to know during the entire Month, or at any particular Period?

1029. Refer to the Month of May 1840?

I have sent for my Diary.

1030. Had you any Communication with Mr. Stanley on the Subject of the Returns made to this House with regard to your Correspondence with the Poor Law Commissioners?

I am sure I must have had; I am sure I had.

1031. Did you recommend to Mr. Stanley, or express any Wish to Mr. Stanley, that he should leave out any Portion of your Report of the 23d of May, stating that Mr. Butler had retired from Business, and was residing in Clonmel as a private Gentleman?

Never; I never recommended or advised him to do so. I should much rather have had the whole of my Report inserted, as far as I was personally concerned.

1032. You never expressed a Wish of that Kind at any Time?

I never did, on that Occasion or any other; I should consider myself as grossly neglecting my Duty to have given any such Suggestion or Advice.

1033. When Proceedings were instituted against Mr. Butler in the Four Courts in Dublin did he apply to you for any Funds to enable him to go on with his Defence?

Never.

1034. Nor to the Poor Law Commissioners?

Not to my Knowledge; I have no Knowledge of his having done so, nor do I believe he did so, for I think I must have heard it if he had done so.

1035. When the Correspondence arose between the Poor Law Commissioners and certain Rate-payers and Guardians of Clonmel respecting the Appointment of Butler for the Year 1841 to the Situation of Returning Officer, did they communicate with you upon that Subject?

I have no Recollection that any such Communication was made with me; but I have no Doubt that I had Conversations with the Poor Law Commissioners, either with Mr. Stanley or Mr. Nicholls, on the Subject.

1036. Did you recommend that he should be continued in the Office in the Year 1841?

Certainly not.

1037. Why not?

Because it was unnecessary; having given an introductory Note, if I may take the liberty of adverting to it, I considered that I had nothing further to do with Mr. Butler; and I never had, in regard to recommending his Continuance in Office; that was in Mr. Hawley's and Mr. Hancock's official Business; if he satisfied them, and satisfied the Commissioners, that would have been a Cause for his Continuance; not otherwise.

1038. Did

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1038. Did you recommend him to be continued in the Office, or not?  
I swear positively I never did.

1039. Did you recommend him not to be continued in the Office?  
I did not; I took no Part in the Matter, one Way or the other.

1040. You were very much engaged in the Month of February 1839 in your novel Duties?  
I was.

1041. You never attached much Importance to the Appointment of Mr. Butler as Returning Officer for Clonmel?  
Very little indeed.

1042. You were not very likely to press for this as an Object when you felt it was no great Object to do so?  
No, certainly not.

1043. Have you any Recollection of having done so while you were in Dublin?  
No.

1044. Can you state positively whether you received a Letter from Mr. Hawley and Mr. Hancock previous to the 16th of February?  
No; I do not state that; but I state that I think it is very likely that I received a Letter from Mr. Hancock, stating that they had agreed to recommend Mr. Butler for the Situation.

1045. You only think it is likely?  
There is a Document that makes it almost a Certainty; but as I have no Document to that Effect, and have no certain Recollection on the Subject, I cannot go further.

1046. What is the Document to which you refer?  
I have a Document of the 4th of March, showing that I wrote to Mr. Butler, saying that I was glad he was to be recommended, and advising him how to act in case he was so recommended.

1047. Have you reason to believe there was a Letter before the 16th of February?  
My Letter to Mr. Hancock was dated on the 9th. I consider that very probably Mr. Hawley or he wrote to me; but I cannot state the Fact positively, but I know I had that before the 1st of March.

1048. You cannot state positively whether you received any Communication from those Parties before the 16th?  
I cannot.

1049. And yet you are almost certain, or you think it probable, you did in the Office state that Mr. Butler had the Promise of the Office?  
I have no Doubt that if any Answer which I received gave Information on that Subject I communicated that in the Office, for that it was my Duty to do.

1050. But you have no Recollection on the Subject?  
I have no Recollection on the Subject.

1051. When you state that would be communicated in the Office, to whom do you refer; to what Person?  
Either to Mr. Earle, who was then acting for Mr. Nicholls, who was in London, in his Absence, or to Mr. Stanley; to no other could I have done so.

1052. Were you appointed to the Office of Assistant Commissioner with a view of being serviceable afterwards in the Medical Department?  
That may have been the Object of the Parties who did me the Honour of appointing me, but I was appointed with the express Understanding, both on Mr. Nicholls's Part and my own, that I was to act as an Assistant Commissioner, in the general Sense of the Word, in the Formation of Unions, and Superintendence, which I did Two Years.

(41.4.)

1053. You



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1053. You were the Author of a considerable Work on Medical Charities in that Country ?

I have published a Work on that Subject.

1054. Did you, as has been stated in some of the Answers, ever use any Means to alter or dictate any Answer to Mr. Fennell ?

Never, in the slightest Degree. I have now my Diary before me, and I find I was in Dublin during some Days in the Month of May 1840.

The Witness was directed to withdraw.

H. Pedder, Esq.

HENRY PEDDER Esquire is called in ; and having been sworn, is examined as follows :

1055. YOU are a Guardian of the Clonmel Union ?

I have been ever since its Commencement ; I have been elected every Year.

1056. You have resided in Clonmel for a great Number of Years, and hold a great deal of Land ?

Three or Four hundred Acres in my own Hands at least.

1057. How long have you resided in the Town ?

Since the Year 1805.

1058. Do you belong to any political Party in Clonmel ?

Yes, I do, decidedly.

1059. What is your Party ?

Conservative in the highest ; I should like to preserve them a few Acres.

1060. Have you known Mr. Butler the Returning Officer long ?

Since I have known any One in the Town of Clonmel ; I know all Descriptions of Parties, because I have been an acting Attorney, and in that Capacity I have been pretty well acquainted with Lads of Mr. Butler's Kind.

1061. Did you ever hear of John Butler, the Returning Officer of Clonmel, having compounded with his Creditors, and paid a Composition ?

Very often since he declined Business.

1062. Was it a Matter of Notoriety ?

Yes ; I heard it from the most respectable Woollen Drapers with whom he compounded.

1063. Do you think there was any Person in Clonmel of a respectable Rank who was not aware of that Fact ?

They might not have exactly understood how it was as to his having compounded with his Creditors, but that his Business had declined, and that he had given it up, that he had been unsuccessful in his Business, was the universal Opinion.

1064. What was the general Impression with regard to Butler's declining Business ?

The general Impression with regard to his Failure, if I am asked to explain it, was that it was in consequence of the Trial which has been alluded to with his Brother-in-Law.

1065. Do you know that he has positively failed ?

I know that he gave up Business, and that he was unable to pay the Demands on him.

1066. Were there any legal Proceedings in the Bankruptcy Court ?

Oh no ; nor did he take the Benefit of the Insolvency Act.

1067. Had you any Demands upon him ?

I was employed for others as an Attorney.

1068. Was the Composition he effected with his Creditors paid ?

I have heard not ; I have heard that the Sheriff has had Executions against him every Year, arising out of those Settlements.

1069. Were

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1069. Were the Parties on whose Behalf you applied paid?  
No, they were not; I do not think I applied till lately.

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1070. How long have they been outstanding?  
Five or Six Years.

1071. You did not apply to him till very lately?  
My Bills were extended; they were not paid, and I have them in my own Possession now.

1072. When he compounded with his Creditors he gave Bills?  
I do not mean to say that the Bills I have were passed at that Time; but they were Bills passed at Three, Six, Nine, and Twelve Months, and Three and Six Years Bills passed at long Dates, several of them. I have the Bills in my Possession now.

1073. Do you consider that it was a Matter of very public Notoriety in Clonmel that he had compounded with his Creditors?  
I heard it from all Descriptions of Persons very lately. When I made the Protest against him as Returning Officer, I inquired of different Parties respecting him; there was not a second Opinion given by any Party; his own Party as well as the others thought that he was a most unfit Man.

1074. What Politics is Mr. Bagwell?  
I should say Liberal.

1075. Did you hear of his having complained against Mr. Butler previous to his Appointment?  
He told me that he had done so.

1076. And that he had written to the Commissioners upon the Subject?  
Yes.

1077. Did he receive a satisfactory Answer?  
He told me that he had not.

1078. Is he a Gentleman of large Property in that Neighbourhood?  
He owns almost the entire Town, and large Property in the Union besides.

1079. Do you remember the Trial of Burke versus Butler?  
I do; I remember the Trial between him and one of his Relatives,—his Brother.

1080. Have the goodness to state the Facts?  
I heard Part of the Trial myself. There was some Property conveyed to Butler to pay some Debts, and he went off to America; when he came back the Property was conveyed to Butler's Second Wife; the Trustees refused to re-convey it, and there was an Action brought, and 500*l.* Damages given.

1081. Was that the full Value of the Property?  
I believe it was so considered by the Jury.

1082. Did you consider that Butler's Character was at all damaged by that Trial?  
It was the common Talk of the Town.

1083. In what Year was that Trial?  
I cannot state the Year, but Eight or Nine Years ago.

1084. Was it very public in Clonmel?  
Yes. It was a Year or Two before his giving up Business that he had passed Bills for this 500*l.*, and as those Bills became due he was sued upon them, and for the whole Costs of those Bills he was in the Sheriff's Hands.

1085. Do you consider it possible that any respectable Person residing in Clonmel, in the Situation of a Medical Man, could be ignorant of the Circumstances which you say were so notorious in the Town of Clonmel?  
I should not have supposed there was a Man in Clonmel ignorant of them.

1086. Did you ever hear of Butler's having assaulted the Police?  
I am quite aware of his being charged by the Police with having caused a Mob, and an Attack upon them in the Discharge of their Duty; he was brought before

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before the Magistrates, and the Magistrates examined the Policemen upon their Oaths, and I believe they sent up the Evidence to Government for their Opinion as to whether they should continue to prosecute Mr. Butler, and they took Informations against him.

1087. Did that Riot make much Talk in Clonmel?  
 There was a good deal of Talk about it.

1088. When was that?  
 Five or Six Years ago.

1089. What was the Result of the Evidence being sent up to Government?

The Government directed the Magistrates to give him a Reprimand, but that they did not think the Proceeding should be followed up further.

1090. You are aware that the Government did order he should be reprimanded?

The Mayor told me so.

1091. Do you know who was Member for Clonmel at that Period?  
 I do not. I think it was in Lord Normanby's Administration.

1092. What was John Butler's Reputation in the Town of Clonmel as a political Partisan?

When Mr. Butler was appointed Returning Officer there was a general Feeling through the Town on both Sides of the Question; I had an Opportunity of knowing the Union, both Protestants and Roman Catholics, and there was a general Feeling that he was the most unfit Person that could be selected.

1093. You had a greater Opportunity of knowing the Opinion of one Side than of the other, probably?

I had an Opportunity of knowing both.

1094. What is the general Opinion in Clonmel of Mr. Butler's political Feelings?

That he was a decided Partisan, since ever there was any Partisanship going on, in fact.

1095. Did he attend political Meetings in Clonmel?  
 Unquestionably.

1096. On which Side?  
 On the one Side always.

1097. On the Radical Side?  
 On the Radical Side.

1098. He was always very active?  
 Yes; one of the most active Agents, I should think, going.

1099. Was he actively engaged in Mr. Rowland's Election against Mr. Bagwell? He, and his Clerk Dennis Welch, I believe were the Two leading Men for Mr. Rowland.

1100. Mr. Rowland was of the Liberal Party?  
 Yes.

1101. Was Mr. Phelan then resident in the Town?  
 He was.

1102. You are in the Commission for paving and lighting, and several other Boards?  
 I am.

1103. Was Mr. Phelan engaged in that Election?  
 I do not think he voted for either Party; I am quite aware he did not.

1104. Has Butler a Vote for the County?  
 He had One; he registered a £50 Freehold at one Time, but I do not think he has One now.

1105. Did

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1105. Did he ever try to vote upon that?  
I believe he voted upon it. I know I broke his Vote at the Time he proposed Mr. Ball.

1106. Did he vote for Mr. Ball upon it?  
He attempted to vote for him in the Town on the County Certificate.

1107. Do you know Mr. George Fennell, the High Constable?  
I do, very well.

1108. Did you ever hear of his taking a Part in Politics?  
I know very well he did not.

1109. Has he voted?  
No, he never did.

1110. Did he ever attend a political Meeting?  
Never, to my Knowledge; he is quite a different Man.

1111. A different Man from whom?  
Butler and Fennell are quite different Men.

1112. Do you know whether or not the Editor of the Tipperary Constitution was served with a Writ at the Suit of Denis Phelan?  
I do, very well.

1113. What was that for?  
It was, I think, for some Observations on a Speech of Mr. Phelan's at some of those Radical Meetings.

1114. Was that Writ followed up by a Prosecution?  
No, it was not.

1115. You say you think it was for some Observations on a Speech of his; are you quite sure of it?  
I was employed to defend the Editor of the Paper.

1116. Then you must have been thoroughly acquainted with the Nature of the Suit?  
There was no Declaration filed to declare what the Libel was; the Attorney's Letter, previous to the Writ, was simply for a Libel; then the Writ was served.

1117. You are sure it was for Observations on a political Speech?  
I am quite sure it was for some Comments on Dr. Phelan's Speech.

1118. Did the Editor of the Newspaper make any Apology?  
Indeed he did not; we are not in the habit of making Apologies.

1119. You have taken a very active Part in all these Proceedings, have you not?  
I have, a very active Part in the Poor Law Election, for I was most anxious it should be carried on fairly. I proposed Four Roman Catholics and Four Protestants, and I was anxious to have an equal Number in Clonmel.

1120. You have had a good deal of Correspondence with the Commissioners on the Subject of the Proceedings at Clonmel?  
Yes.

1121. It was rather a warm Correspondence?  
Not more so than the Occasion called for.

1122. Do you recollect writing a Letter saying how unsatisfactorily these Matters had been conducted?  
I think they were very unsatisfactory; they put me to about Six or Seven hundred Pounds Costs. I think they did their Duty very unsatisfactorily.

1123. This is not the first Day you have been in this House?  
No; I have been here all through these Proceedings.

1124. Did you happen to hear a Remark the first Day, that Witnesses who were to be examined should not remain in the House?  
I had not the least Idea that I was to be examined till this Moment.

H. Pedder, Esq.  
22d March 1841.

1125. You have been present, and heard all these Proceedings?  
Yes.

1126. Have you read all the Evidence too?  
I have.

1127. Have you read the Evidence in the Newspapers, and in the printed Papers before the House?  
I have; every Part of it.

1128. Are you aware that Mr. Nicholls also was in the House previous to his Examination?  
He was.

1129. Did you request the Poor Law Commissioners, in a Letter you wrote to them, to investigate the Truth of the Disclaimer of Davis?

If they had granted an Investigation we should have shown them quite clearly that every Charge made was correct, and that Mr. Butler was wrong, because Mr. Butler was very well aware, when he sent forward that Letter making the Disclaimer, that it was Davis's genuine Signature, for he had heard from Flyn that he had seen him sign it.

1130. Was that what you were desirous of proving?  
Yes.

1131. Did the Commissioners give you the Opportunity of doing so?  
No.

1132. Of whom did they inquire?  
They inquired of Mr. Butler, and took his Ipse dixit for every thing.

1133. They did not apply to the protesting Parties?  
Not to any of our Parties.

1134. Did you institute Proceedings against Butler for improper Conduct in the Courts of Dublin?

I did; I tried to get a Criminal Information against him to investigate these Proceedings, when the Commissioners refused me.

1135. Did you succeed in obtaining that Criminal Information?  
No, I did not.

1136. Why did you not?

Because I could not have Davis's Trial on before that Motion came on to be discussed. I could not have Davis tried before the Judges came to a Decision that they had not sufficient Evidence before them.

1137. Was Davis condemned and sentenced to Three Months Imprisonment afterwards for that Perjury?  
Yes.

1138. Did you see Mr. Hawley and Mr. Hancock, the Assistant Commissioners, when they were in Clonmel?

I never saw them in my Life.

1139. Were they in Clonmel?

I never saw them, if they were there; I do not know that they were there.

1140. Did you ever hear any Person say that they informed them as to the Character of Mr. Butler?

No, I never did; nor do I believe they inquired of any One, except perhaps Mr. Bianconi.

1141. Do you think it possible they could have inquired of any One as to the Character of Mr. Butler before they recommended him for the Office?

It is possible they might have made some Inquiries; but they should have inquired of both Parties. I am sure they never inquired of any of our Party. I am quite sure they never applied to Mr. Bagwell, One of the principal Proprietors there.

1142. Butler had been a Tenant of Mr. Bagwell, had he not?

I believe he had held Ground under Mr. Bagwell, but whether he had been original Tenant I do not know.

*H. Pedder, Esq.*  
22d March 1841.

1143. Did he register his Holding under Mr. Bagwell?  
I believe he did.

1144. As a 50l. Freeholder?  
Yes.

1145. You think Mr. Bagwell must have known his Character?  
I am quite sure he must have known his Character; perhaps he was One of the Magistrates who sat on the Bench.

1146. On whose Testimony did the Two Assistant Commissioners rely when they recommended him?  
If we are to judge from Report, I should suppose Mr. Bianconi.

1147. Who is Mr. Bianconi?  
He keeps Jingles.

1148. He is pretty well known in the South of Ireland?  
Yes.

1149. Is he a Repealer?  
Decidedly.

1150. What Countryman is Mr. Bianconi?  
It is very hard to say; some People say he came from Kerry, and some say from Italy.

1151. Have you any Idea how many Horses Mr. Bianconi has?  
I dare say Thousands.

1152. He is a Man of considerable Substance?  
I dare say he is.

1153. Is he not the greatest Proprietor of Stage Coaches in Ireland?  
Of Stage Cars; he is a very useful Man; take him out of Politics, and there is not a better Man.

1154. He has rendered great Service to that Part of Ireland?  
Certainly he has.

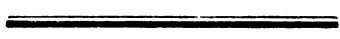
1155. Is he a naturalized Subject?  
I cannot say; it must first of all be proved where he was born.

1156. When the Assistant Commissioners declined to interfere further in respect of these Charges which you brought against Mr. Butler, they referred you to the Courts of Law for a Remedy?  
The ydid.

1157. And you availed yourself of that, and in consequence commenced those Proceedings?  
I did; but I conceive it would have been their Duty to have prevented my doing that if they could.

The Witness is directed to withdraw.

Adjourned.





**Poor Law Commission, Ireland.**

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**MINUTES OF EVIDENCE**

TAKEN

BEFORE THE HOUSE OF LORDS

RELATIVE TO

**CERTAIN RETURNS**

MADE BY THE POOR LAW COMMISSIONERS TO ORDERS OF THE HOUSE

RESPECTING

**The APPOINTMENT of JOHN BUTLER to the SITUATION of  
RETURNING OFFICER of the CLONMEL UNION.**

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**26th March 1841.**

<b>HENRY PEDDER Esquire</b>	-	-	<b>page 111</b>
<b>RICHARD EARLE Esquire</b>	-	-	<b>page 113</b>

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*Die Veneris, 26° Martii 1841.*

**THE** Order of the Day being read for the further Attendance of Richard Earle, Esquire;—

Evidence re-  
specting certain  
Returns made by  
the Poor Law  
Commissioners.

HENRY PEDDER Esquire is again called in, and further examined as follows :

*H. Pedder, Esq.*

26th March 1841.

1158. HAVE you read the printed Evidence taken by the Short-hand Writer ?

I have.

1159. Is there any Portion which you wish to explain or correct ?  
There is one Answer here which was not what I gave.

1160. Please to explain it ?  
The Number of the Answer is 1062.

1161. Read it ?

“ Was it a Matter of Notoriety ? ” That was with respect to Mr. Butler having entered into a Composition with his Creditors. The Answer inserted here is, “ Yes ; I heard it from the most respectable Woollen Drapers with whom he compounded. ” That is not the Answer I gave, or intended to give.

1162. What was it ?

“ I heard it from the most respectable Woollen Drapers that he had compounded ; ” because I had never an Opportunity of knowing with whom he had compounded. The Woollen Drapers that I heard it from were residing in Clonmel.

1163. You are not aware of it of your own Knowledge ?  
Not at all.

1164. Nor that he was insolvent ?  
No ; I swore before that he was neither a Bankrupt nor insolvent.

1165. You stated as your Reason for his leaving Business that his Business had declined ; that is all you know of your own Knowledge ?

That is all I heard. He never took the Benefit of the Insolvent Act, I am quite aware.

1166. What did you hear with regard to his having compounded with his Creditors ?

The general Report that I heard was that he had compounded with his Creditors.

1167. Did you hear it from good Authority ?  
I heard it from respectable Woollen Drapers in the Town of Clonmel.

1168. Were those Bills, which you state in 1072 were passed at Three, Six, Nine, and Twelve Months, and Three and Six Years Bills, which were placed in your Hands as Attorney, arising out of the Composition ?

Certainly not ; I stated that. The Answers show clearly that they were not. It was a subsequent Transaction.

1169. In answer to Question 1065 you state, “ I know that he gave up Business, and that he was unable to pay the Demands on him. ”

Such was the general Impression.

1170. You do not know it of your own Knowledge ?

Not exactly. I am pretty sure of it.

(41.5.)

1171. You

H. Pedder, Esq.

26th March 1841.

1171. You have no Doubt of it?

Not at all.

1172. Then that was an incorrect Answer, "I know that he gave up Business, and that he was unable to pay the Demands on him." You did not know that he was unable to pay those Demands?

It was the general Understanding at the Time.

1173. You are asked of your own Knowledge?

I would not swear that it was the Fact, but it was the general Understanding at the Time.

1174. You have no Doubts of the Fact?

Not any Doubt.

1175. When you state that you do not know it, you mean that nothing has come within your own Knowledge which enables you to prove it?

Exactly. In fact, upon turning the Thing over in my Mind,—for I had not an Idea that I was to be examined when I was called up the other Day, or I would have myself ascertained, for I have Documents in Town,—but I believe it is Twelve or Thirteen Years since he first began to get into Difficulties; since the Trial was.

1176. Since he gave up Business?

No; that is Eight or Nine Years ago.

1177. Was he in Business at the Time of the Trial?

He was.

1178. What was the Result of that Trial, from any Information you have since received?

That the Case was brought for Trial at the Clonmel Assizes, and after it was called on it was left for Arbitration.

1179. By Direction of the Judge?

By Direction of the Judge.

1180. What was the Result?

I have since heard that the Damages given by the Jury were 750*l*.

1181. Against Butler?

Against Butler.

1182. Had those Bills which you held as Attorney any Reference at all to that?

Not the least to his Composition; that is a subsequent Business; I stated so here. I was asked, "Were the Parties on whose Behalf you applied paid?" and my Answer was, "No; they were not. I do not think I applied till lately." "How long have they been outstanding?"—"Five or Six Years."

1183. You have been employed by many Parties in Clonmel against Mr. Butler?

I have.

1184. But from none of those Parties have you heard that he compounded with his Creditors?

From none; they are subsequent Transactions.

1185. Was the Judgment of that Arbitration ever made a Rule of Court?

It was so, I understand; at least I should suppose so.

1186. You only suppose so?

I have no Reason to suppose that it was not; they could not have gone on with it unless it had been.

1187. They could not have taken Proceedings without it being made a Rule of Court?

The Award is made a Rule of Court, and has the same Effect as the Verdict of a Jury. It is always a Rule when a Case is referred to Arbitrators that the Award should be made a Rule of Court, and entered accordingly; I take it for granted that such was done in this Case.

1188. You

1188. You consider that Award to have been the Cause of his not having been successful in Business, and having compounded with his Creditors ?

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I think, from what I heard at the Time, that he arranged the Payment of this 500*l.* or 750*l.*, or whatever the Verdict was, or the Award, by different Bills; that according as those Bills became due he was not able to meet them; then there were Costs incurred on each of those Bills, and the Costs and the Amount due on the Bills came to such a large Sum, that that, with perhaps a declining Business, was the Cause of his compounding.

1189. The House understand you to say, that it was the Amount of Money which in consequence of this Award Mr. Butler had to pay, and not any Impression arising out of the Circumstances of the Trial, which caused the Failure of his Business.

I should think so.

1190. Was there any other Answer you wished to correct ?

Yes; "Second Wife" it is printed. I do not think the Man was ever married a Second Time. I said a "Settlement on his Wife," and the Report says "Second Wife;" that is in 1080.

1191. Read the Answer ?

"I heard Part of the Trial myself. There was some Property conveyed to Butler, to pay some Debts, and he went off to America; when he came back the Property was conveyed to Butler's Second Wife." The Property was conveyed in Settlement on Trustees for the Benefit of his Wife.

1192. Then he had misapplied the Funds ?

The Trustees refused to convey back the Property when the Brother came home; and that was the Cause of the Action.

1193. What was the Nature of the Action, do you know; was it for Money had and received ?

I should think it was for Money had and received, and converted to his own Use.

1194. What was the Date of the Trial ?

1828 or 1829.

The Witness is directed to withdraw.

RICHARD EARLE Esquire is called in; and having been sworn, is examined as follows :

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1195. YOU were an Assistant Poor Law Commissioner ?

I was.

1196. Were you in Dublin in the Month of February 1839 ?

Yes, I was; I went to Ireland in September 1838, and left it on the 26th of June 1839. I left the Commission on that Day.

1197. What Instructions did you receive from Lord Morpeth respecting the Appointment of Returning Officers ?

I cannot call to Recollection the Hearing of any specific Directions from Lord Morpeth, but the Directions that I received from Mr. Nicholls were to this Effect; that we should endeavour to find impartial Persons for that Office; and if Persons already filling County Offices proved themselves proper for the Employment, that they should be selected.

1198. Did that refer to the High Constables of Baronies ?

Yes; there was a Reason why they should be, I will not say preferred, but why they should be first looked after; they knew the Names, and I dare say the Residences, of those who paid County Cess.

1199. Were those Instructions and Recommendations of Mr. Nicholls given to the Assistant Poor Law Commissioners who were appointed to overlook the different Unions and select the Returning Officers ?

I should say that such was the Tenor of the Chief Commissioner's Directions

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to us all, but not that we were to confine ourselves to those Individuals at all ; there was no such Injunction as that.

1200. But they preferred those Persons generally, in case they were proper and fit for the Office ?

No ; I should guard myself against saying "preferred" ; but there was some Advantage in employing them, if they proved to be otherwise qualified or eligible, I should say.

1201. Can you at all account for this Circumstance, that of Five Unions in Tipperary, in the Unions of Clogheen, Tipperary, and Nenagh, the High Constables were appointed ; whereas in the other Two Unions of Tipperary, viz., Clonmel and Cashel, the High Constables were passed by, and other Persons appointed ?

I cannot ; but I do not know that the Names of any one but those recommended by the Assistant Poor Law Commissioners ever came before the Commissioner in Chief. I am not aware that any more than One Name was ever mentioned to the Commissioner. I am aware, from the Proceedings here, that there was another Name mentioned in the Case of Clonmel, but not in the other Towns.

1202. Have you ever seen a Return made to this House in May 1840, with reference to those Two Unions of Clonmel and Cashel, as regards the Appointment of Returning Officers ?

I have never seen it ; I have never had it in my Hand till Five Minutes ago. I believe I have read Portions of it in the Newspapers ; but whether I have seen the whole of it I cannot recollect.

1203. The Question refers to the Return made to this House in May 1840 ?

I mean that a Portion of the Correspondence with reference to the Selection of Returning Officer for Clonmel I may have seen in the Papers, but whether I have seen the whole Return made by the Commissioners I do not know.

1204. Both from Clonmel and Cashel the High Constables did apply for the Situation of Returning Officer, viz. Mr. Fennell from Clonmel, and Mr. Mansergh for Cashel ; that is stated in the Return ?

No doubt it was so ; I do not recollect it.

1205. Have you got the Return before you of the 11th of May 1840 ?

Yes, I have.

1206. Will you please to turn to Letter No. 3.

I have it before me.

1207. Have you any Recollection of the Circumstances of the Receipt of that Letter of Mr. Fennell, applying for the Situation of Returning Officer, dated the 15th February 1839 ?

I have no Recollection whatever of it, except from the Circumstance which the Inquiry here has brought to light, namely, that there was a Letter with my Initials attached to it ; at least I believe this is the Letter on which that Minute of mine was written.

1208. Is that the Letter you allude to ? (*The original Letter being shown to the Witness.*)

It is ; this is undoubtedly my Handwriting ; it is a Direction to the Clerk :— "Acknowledge, and acquaint that his Application will be considered when the Time arrives for selecting a Returning Officer for the Clonmel Union ; forward to Mr. Hawley for his Information."

1209. Was that Letter entered on the Register Book of the Office ?

I really am not able to say ; and if I were in the Commission now I should not be competent to say, for I never saw the Register.

1210. When you wrote that Note upon the Back of Mr. Fennell's Letter, to whom was it meant for an Instruction ?

To the Chief Clerk, who would prepare the Draft of it, and it would have come before the Assistant Secretary for his Signature.

1211. Who

1211. Who was that Clerk?

I think Mr. Wodsworth was the Chief Clerk then.

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1212. Do you know what Proceedings took place after you had written that Note?

Only from the Inquiry here; I understand that no Letter was written in accordance with this Minute. I understand that the Reply to Mr. Fennell's Letter was not to the Purport which I directed it to be here.

1213. Can you explain to the House why the Letter written to Mr. Fennell on the 18th February was not in conformity with your Directions?

I am quite unable to give any Explanation whatever from my own Recollection.

1214. You were at the Head of the Office at that Moment?

In a manner I was; in Matters of small Moment I undertook to give Directions. All Matters of Importance were forwarded by me to London; but Matters of this Kind I felt myself competent to give Directions upon.

1215. Who had the Power of altering your Directions?

I think Mr. Stanley certainly would be justified in altering a trifling Matter of this Sort, if he thought he made it more in accordance with Truth, or with the Circumstances under which the Letter ought to be answered.

1216. Ought he not to have communicated that Circumstance to you?

I think in all probability he would have done so.

1217. But did he do so?

I think it probable in this Case that he did not do it, and I can give a Reason for it. I find, by reference to a Diary which was kept during that Period, that I was not at the Office on Monday the 18th of February; I find that I was at Selbridge on that Day; and when I had Occasion to leave Dublin I did nothing more than call for my Letters in the Morning, and in all probability I never was in the Office again on those Days. I was very seldom away; but I was forming Unions in the Neighbourhood of Dublin at that Time.

1218. Then in point of fact the Alteration was made totally without your Knowledge?

To the best of my Belief it was.

1219. How then can you account for it, that as your Note bears Date the 16th that Letter was not sent upon the 16th to Mr. Fennell?

It is quite consistent with my Experience in a public Office that a Letter which is directed to be sent on one Day is not sent on that Day. If it is sent on the next working Day after I think it is good Luck; I think that is keeping pretty close to Business.

1220. Will you please to refer to No. 4.? Did you ever see that Letter, dated the 18th of February, in the Register Book?

No; I could not charge my Memory with having seen it anywhere, or at any Time, till it was printed here.

1221. Then up to the Time of the Investigation in this House you were not aware that the Letter had not been sent to Mr. Fennell in conformity with your Instructions?

No, I was not at all.

1222. According to the best of your Recollection, did any Person speak to you in the Office upon the Subject of the Appointment of the Returning Officer of the Clonmel Union?

Does the Question refer to the Time of the Arrival of Mr. Fennell's Letter.

1223. Either before or after?

I think after that Time I had Conversations, or at any Rate a Conversation, upon that Subject.

1224. With whom?

With Mr. Phelan.

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1225. Can

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1225. Can you recollect about what Time after you returned from Selbridge?

I do not think it was in reference to this Letter, but it was in reference to Mr. Butler's Appointment, and after the Receipt of this Letter, I should say.

1226. Was it after the Receipt of Messrs. Hawley and Hancock's Letter, dated the 16th of February, from Clonmel?

I am afraid of saying one way or the other; I really do not know. I should rather say it was after the Receipt of both Mr. Fennell's Letter and the Assistant Commissioners Letter recommending Mr. Butler.

1227. What did Mr. Phelan say to you upon the Subject of John Butler, as Returning Officer?

As far as my Recollection carries me, he thought he would make a good Returning Officer. I merely spoke to Mr. Phelan, not as an Assistant Commissioner, but as a Resident of Clonmel, and supposing that he knew Mr. Butler; in no other way.

1228. He recommended him to you for the Situation?

I can scarcely say that; it was my habit to talk with those about me upon these Appointments, and I remember asking Mr. Phelan about the Qualifications of Mr. Butler, because he was recommended by the Assistant Commissioners.

1229. Please to turn to Letter No. 7., dated "Clonmel, the 12th of March," Mr. Bagwell's Letter; was it previous to that Letter, do you think, that you had that Conversation with Mr. Phelan, or after it?

I really could not undertake to say.

1230. Do you recollect at all how it occurred, that, having seen Mr. Fennell's Application, and replied to it, as you thought, certainly by the most satisfactory Letter, and the true Letter, as appears by the Papers, that the Subject should again be brought before you?

I am not sure that it was ever brought before me again; but in Truth I may say that I thought it a Matter of very little Importance, the exact Terms in which an Application of that Sort might be replied to. I think it was very immaterial, even if it was said that the Assistant Commissioners had recommended another, although that Recommendation might have been received after the Receipt of the First Letter, and before the Answer was sent.

1231. Do you not think it very material that the Commissioners should reply exactly as the State of the Case is, and not state that the Letter of Mr. Fennell did not arrive at the Office until the Appointment had been conferred upon another Person, whereas the Appointment had not been conferred upon another Person at the Moment, nor did the Letter arrive after the previous Letter of the Two Commissioners?

It is decidedly desirable that a Reply, even of the most trifling Nature, should be in strict Accordance with the Facts of the Case, and with Truth; but if there is no Motive for a Deviation from the strict Truth, I mean to say that I for one should not condemn it; I should not regard it as of sufficient Importance to dwell upon my Mind afterwards; that is all I mean to say.

1232. Does it not appear to you in reading this Letter that there must have been a Motive for answering Mr. Fennell's Letter in the Way that it was answered, when it was not in accordance with the Truth?

I have had no Opportunity of assisting my Memory in any way upon this Transaction since the Inquiry first commenced here, and at a Distance from London. I have been trying to assign a Motive for the Deviation from that, and I have attempted it in vain. I cannot suggest one; I cannot suggest, above all, an unworthy Motive.

1233. Knowing the Business of the Office so well as you must know it, can you account for it at all that this Letter of the 18th February 1839 never was sent to Mr. Fennell, and that another Letter of a very different Tendency was sent to him?

I cannot at all; that has equally baffled my Attempts. I do not at all see how the Discrepancy arises.

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1234. You cannot explain it at all?  
No, I cannot, indeed.

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1235. Did you, being the Head Commissioner in the Office at the Time, make any Application, upon the Receipt of Mr. Fennell's Letter, to Mr. Phelan, regarding his Character, inasmuch as Mr. Fennell requests that Mr. Phelan may be referred to for Character; "I would refer to Mr. Phelan, One of the Commissioners"?

I should think it most probable that I did not, and for this Reason, that I considered it Mr. Hawley's Duty, who was Assistant Commissioner of the District, to make all the Inquiries. I merely performed the very humble Part of instructing the Clerk what Description of Answer should be given.

1236. Please to turn to the Letter of the 18th of March of the Poor Law Commissioners, No. 8., written in consequence of Mr. Bagwell's Letter, No. 7., stating Mr. Butler's Unfitness for the Office. They direct a further Inquiry to be made, in consequence of which Mr. Hawley writes back this Reply:— "Mr. Butler is the Nephew of the Roman Catholic Archbishop, Dr. Slattery, and has been strongly recommended to us. He is a highly respectable Person; and his Unfitness for the Office, complained of by Mr. Bagwell, can only have Reference to his Connexion with the Prelate above mentioned. I believe his Appointment will give general Satisfaction in Clonmel. W. H. T. Hawley." Do you recollect receiving that Letter?

I do not; I apprehend that Mr. Nicholls was in the Office at that Time.

1237. On the 16th of March?

On the 18th of March; I do not know it for a Fact.

1238. The Letter of the 18th of March, in reply to Mr. Bagwell, states that they had made further Inquiries. Are you aware of any and what Inquiries, besides Mr. Hawley's Letter, they had made, in answer to Mr. Bagwell's Letter?

I am not aware whether any were made beyond those made by Mr. Hawley.

1239. Do you recollect to which of the Clerks you gave Mr. Fennell's Letter, with your Note upon it, in order that it might be copied?

I cannot, indeed. I sent it probably up Stairs to the Office where the Clerks sit, with a Variety of others, with the Directions of the Day on Matters of trifling Moment.

1240. Should you have considered it an Irregularity if any Assistant Commissioner had given Directions to alter your Letter without communicating it to you, and sent another Letter of a totally different Tendency?

Yes, I think I should, if he had done so without speaking to me; but I was not at all in a superior Position to any of my brother Assistant Commissioners; but being resident in Dublin, and being seldom out of Dublin, I took charge of a Part of the Correspondence in the Office, especially during Mr. Nicholls's Absence; besides that I assisted him in the Preparation of the official Documents and the Orders of the Commissioners. Those Duties were superadded to my ordinary Duties of Assistant Commissioner, in which I was at the Time engaged, and which must account for my not being thoroughly acquainted with every Letter that came into the Office.

1241. Mr. Nicholls has stated in his Evidence that he should consider it a great Irregularity in case any Assistant Commissioner had altered your Directions; are you of the same Opinion?

Inasmuch as I was on an Equality with the other Assistant Commissioners, I do not wish to say I should think it a great Irregularity, lest I should be assuming a Position which, perhaps, I scarcely held.

1242. Mr. Nicholls stated that you were in charge of the Office, and were Head Commissioner at the Time?

The Assistant Secretary certainly did look to me for Directions, and the other Assistant Commissioners, I dare say, would also have done so at the Time.

1243. Do you draw any Distinction between having been in charge of the Office, as stated by Mr. Nicholls, and being Head Assistant Commissioner?

It was more in this Way, if I may explain, that I was supposed to be, and in fact

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fact was, more in possession of Mr. Nicholls's Views upon different Matters, and his Opinions, than the other Assistant Commissioners, and therefore I was appealed to by them, and in consequence I was capable of giving Directions which others might not have been.

1244. You were resident in Dublin, were you?  
I was.

1245. And Mr. Nicholls was going backwards and forwards between London and Dublin?

He was by far the greatest Portion of his Time in Dublin; it was quite the Exception his being in London, and I believe arose almost exclusively from the Fact of there being at the Time a Bill before Parliament connected with the Administration of the Poor Law.

1246. Mr. Nicholls states, in answer to Question 653, "I think the Instruction must have been given either by Mr. Earle himself or by Mr. Stanley; there are no other Persons from whom the Clerk could have received Instructions. Mr. Earle acts for me in my Absence"?

Yes; it was in the Way I have endeavoured to explain. I was acquainted with his Intentions upon a Variety of Subjects, and his Opinions and Views upon others; and wherever I felt I could safely do it I gave Directions.

1247. But when you gave those Directions you gave them him as being so far the Head of the Office in the Absence of Mr. Nicholls?  
I did, in fact.

1248. Should you not have thought it a great Irregularity in any body to have ventured to alter the Letter which you had directed to be written, without your Knowledge, or without communicating with you?

I have already said, that I should have thought it irregular.

1249. In point of fact, was not the Business expressly confided to you by a Minute of the Board during Mr. Nicholls's Absence?

Yes; I did not bear that in my Mind at the Time; that is now called to my Mind.

1250. Are you aware whether any Assistant Commissioner did interfere to alter the Directions given by you in any Case?

I really am not; I am not cognizant of a single Circumstance of the Kind.

1251. Did you expect that your Note upon the Back of Mr. Fennell's Letter would have been entered on the Register?

I certainly, as a Matter of Business, should have conceived that Mr. Fennell's Letter, not with my Directions, but with the Answer that was written in pursuance of those Directions, would have appeared upon the Register. I mean, not the Terms exactly of my own, but a Copy of the Answer itself.

1252. The Entry upon the Register is of a totally different Nature; it states that Mr. Fennell's Application had not arrived at the Office until after the Letter had been received by the Commissioners, and the Appointment of another Person was made?

For that I am neither accountable, nor can I account for it.

1253. But you are of opinion that the Letter, as directed by you to be written, ought to have been entered on the Minutes of the Register?

Only if it was sent. The same Authority that altered it would presume to direct it to be entered on the Register, I should think.

1254. You never saw the Register in which the Entry was made?

No; I am not aware that I ever had Occasion to look at the Entries for any Purpose. I have seen Minutes of Proceedings of the Board.

1255. Who was the Commissioner left in charge of the Office during your Absence at Selbridge?

There was, in fact, no one. Mr. Stanley, the Assistant Secretary, was there. It is very possible that Mr. Phelan might have been there on that Day.

1256. Would

1256. Would Mr. Phelan have acted in giving Directions if he had been there?

R. Earle, Esq.

I really do not know that he would; I should say not.

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1257. Your acting was in consequence of a Minute of the Board?

It was.

1258. There was no such Minute appointing any body, in the event of your Absence, to take the Charge?

There was not.

1259. On your Return from Selbridge did your brother Commissioner, or did the Secretary, Mr. Stanley, make a Report to you of any thing that took place, or of any Letter that was written, during your temporary Absence?

Yes, in general I heard the following Morning every thing that had passed; at least I presume I did.

1260. If Mr. Stanley, in your Absence, had thought it requisite to make Alterations in any Directions you had given with respect to the writing of a Letter, would it not have been his Duty to inform you that he had done so, and why he had done it?

Certainly; and I may say that he frequently told me, not of Alterations, but of Interviews that had passed between him and Gentlemen applying at the Office for Information, and other Subjects. He generally kept me well informed of every thing that passed.

1261. But does it appear that he informed you of this Alteration?

No; I have no Recollection of it at all.

1262. You have stated that there were Circumstances under which you would have conceived that Mr. Stanley or the Assistant Secretary would have been justified in altering the Letter from the Directions you had prescribed; what Circumstances do you think would have justified such a Deviation?

If, for instance, in an Application for a Situation of this Kind, I had made a Mistake in the Answer, and when they came to draft it they found it impossible to follow my Minute, and make it agree with the strict Facts of the Case, there is no Doubt Mr. Stanley would have been justified in altering it.

1263. Did an Accordance with the strict Facts justify in this Case a Deviation from your Directions?

If I had been asked about it, I think I should have altered my Minute. I should have informed the Party, perhaps, not that the Letter had arrived, recommending another before the Arrival of this, but I should have stated that the Assistant Commissioners had recommended another, and have assigned that as a Reason why he should give up further Hope.

1264. Do you think the Alteration made was one which was justified by the Circumstances which you have adverted to. The Alteration made, you will observe, is not that which you state you would have considered yourself justified in making?

I think the Alteration is very excusable, except for one Thing, that it is not in strict Accordance with the Fact.

1265. You have stated the Circumstances which you think would justify an Alteration. You have stated that you would have altered your Minute in order to make it accord more strictly with the Fact. You can hardly state that this Deviation is justifiable upon the same Ground, for it is an Alteration made inconsistent with the Fact?

It is inconsistent with the Fact, but I think in a very unimportant Particular; that, however, is not for me to judge. And the Reason why I state I should have altered my Minute is this, that the Assistant Commissioners having recommended a Person, I should have assumed that that Person in all probability would have been appointed, and therefore I should have felt that I was only doing an Act of Kindness to another Applicant to tell him that that was the Fact.

1266. You will see the Distinction between your altering your own Minute and making it consistent with the Fact, and an Alteration made by a subordinate Officer without such a Justification?

There is a Difference decidedly, but I think one not of Importance.

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1267. Do you recollect, previously to the Receipt of Mr. Fennell's Letter on the 16th, or Mr. Hawley and Mr. Hancock's on the 18th, having any Conversation with Mr. Phelan upon the Subject of the Appointment of the Returning Officer of the Clonmel Union?

I do recollect speaking to Mr. Phelan about Mr. Butler, but, as I before said, only because I knew Mr. Phelan to be a Native of Clonmel.

1268. Mr. Stanley says, in answer to Question 360, "I abide by this, that Mr. Phelan had recommended Mr. Butler to the Appointment, and that he was primarily instrumental in having him appointed the Returning Officer?"

I know nothing of that; I never heard till this Inquiry that Mr. Phelan had given a Letter of Introduction to Mr. Butler to be delivered to the Assistant Commissioners of the District.

1269. Did you ever hear of an Affidavit made by Mr. Butler regarding his Appointment to be Returning Officer?

No, I never did.

1270. The Affidavit states, "that without the Interference of a Third Person he was offered the Situation of Returning Officer for the Clonmel Union by One of the Assistant Poor Law Commissioners, who was well acquainted with Deponent's Character for many Years;" that applies to Mr. Phelan?

There are no Circumstances that have come within my Knowledge to make me place Confidence in the implicit Accuracy of that Affidavit. I know of no Act of Mr. Phelan which would make me think that he had taken an active Part in the Appointment of Mr. Butler, save the Letter of Introduction which I now find that he gave to Messrs. Hawley and Hancock.

1271. Were you in the Office at the Time when various Complaints were made by certain Guardians and Rate-payers of the Clonmel Union against the Conduct of Mr. Butler in his Office of Returning Officer?

Yes; I cannot say I recollect all the Particulars, but I remember that a great deal of Correspondence arose upon it.

1272. Did you then make any further Inquiries of Mr. Phelan regarding Mr. Butler's Character?

I cannot charge my Memory that I did.

1273. Do you recollect whether or not any Investigation was held by any Assistant Commissioner into those Charges which were made against Mr. Butler?

I really do not recollect, I am sure. At this Distance of Time, and having ceased to have any thing to do with the Commission, I really forget what Course was taken with regard to those Papers; I only remember their Arrival. I remember Imputations cast on both Sides; both Sides in Politics, in fact.

1274. Upon the Election?

Upon the Election Proceedings; one Party inculpatating Mr. Butler; and another Party inculpatating the other.

1275. The House do not find in the Correspondence that the Party opposed to Mr. Butler were inculpatated by him, or even attacked by him; the Complaints appear to have been entirely on one Side?

No; I do not think that there were Complaints from Mr. Butler; but if my Recollection serves me, there were other Parties making that Complaint.

1276. Mr. Butler was complained of as to his Conduct in the Office of Returning Officer?

Yes.

1277. Then what Inculpations could there be of a similar Nature against other Parties?

Improper Influence in returning Guardians. I think I remember it.

1278. You may perhaps be confounding the Clogheen Papers with the Clonmel Union Papers?

I perhaps am; I think I am confounding them.

1279. If you refer to that Correspondence you will not see any Reference made to the Inculpation of other Parties?

I would much rather that that was adhered to than my Recollection.

1280. At

1280. At the Time that Mr. Nicholls was himself in Dublin you had not the Charge of this Matter?

No.

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1281. In short your Duties were quite distinct from those upon which you have been now asked?

Yes.

1282. You mentioned a Conversation which you had with Mr. Phelan as to the Character of Mr. Butler; did you mean that that was after the Appointment of Mr. Butler was made?

No; I think it was before the actual Order came out for his Appointment.

1283. And he then spoke of him to you as a fit Person to be appointed?

Yes.

1284. Did he mention it to you that his original Introduction to the Assistant Poor Law Commissioners of the Clonmel Union was by a Letter from him?

No; I do not remember hearing of that Circumstance till this Inquiry.

1285. Have you any Recollection of a Letter of Thanks having been sent to Mr. Fennell, the High Constable of the Barony, for the Assistance which he gave to the Returning Officer and others at the first Election of the Poor Law Guardians?

I have no Recollection at all of that.

1286. Have you any Recollection of any Returns sent up by Mr. Fennell to the Board as High Constable of the Barony?

No, I have not.

1287. Had Mr. Nicholls returned to Dublin when Mr. Bagwell's Complaint arrived?

I thought I saw in the Evidence that Mr. Nicholls returned on the 12th of March.

1288. In point of fact you were not in charge of the Office at the Time Mr. Bagwell's Complaint was made?

Mr. Bagwell's Letter appears to be dated the 12th March, whether I was or not at that Time I really cannot say.

1289. In fact you gave no Order or Instructions upon the Subject?

I am not aware that I did.

1290. You were in the Irish Branch of the Commission from its first Establishment?

I was.

1291. At the Period to which the House have been alluding, the Month of February 1839, what was the Amount of Business in the Office?

Very considerable; and I think the Number of Hands was too limited.

1292. Should you say that it was insufficient for the adequate and faithful Discharge of the Business?

It was, but from a very proper Motive—Economy, to keep down the Extent of the Office; I never saw so much Business done with so few Hands.

1293. You mean at the Period to which these Transactions refer?

Yes; I say decidedly that I never did.

1294. Being aware of the Nature of the Business, and the Manner of conducting it, supposing, in your Absence this Day at Selbridge, such an Alteration had been made in your Minute, do you suppose it most likely that it would have been done by the Assistant Secretary, or by One of the Assistant Commissioners who were not in charge of the Office?

I should say it was much more probable that Mr. Stanley did it than any one else.

1295. In point of fact, in your Absence you would look to Mr. Stanley for any thing that passed?

Decidedly.

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1296. You

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1296. You can assign no Motive for Mr. Stanley having done it?

No Motive, except that he might conceive that it was better to give the Applicant a Notion that somebody was already in the Field, and more successful than himself; that might have been the Motive for altering my Minute.

1297. But in a totally different Manner?

I do not hold it to be so totally different. I think the Recommendation of the Assistant Poor Law Commissioner is very nearly the Appointment of the Officer, because it is exceedingly unusual to set it aside.

1298. Have you acted as a Poor Law Commissioner in the Formation of Unions?

I have.

1299. And in the Recommendation of Persons for the Office of Returning Officer?

I have.

1300. Have you generally selected those Persons who were indicated as not to be preferred (to use your own Expression), but to be first considered, rather than Men unconnected with County Offices?

I have recommended those, and I have also recommended others. In Selbridge it was not my Act only, but it was Mr. Phelan's also; we recommended jointly the Postmaster. In the Bury Union we recommended the Barony Collector, or something of that Sort. At Naas a Schoolmaster was recommended, I well remember; and in the City of Dublin, I think One of them, but I am not certain, was a Barony Collector, and I think the other was not.

1301. Was that the North Dublin Union?

In the North Dublin Union the Person appointed was not a Barony Collector.

1302. Was his Name Mackinner?

That was the Name.

1303. Had you any Reason for passing by the County Officer on those Occasions?

If they did not apply, and I found another ready to my Hand, I took him.

1304. But if they had applied in any of those Instances,—as, in the Case of Mr. Fennell, an Application was made against whom not only no Charge is made, but he appearing to be in every respect a Person meeting the Qualifications which the Commissioners required,—you would have given the Preference to such Persons?

If I thought him an intelligent Man, but I certainly would not if I thought him a stupid Man. A stupid Man gave more Trouble, and brought the Matter into more Confusion, than any other Cause.

1305. You do not mean that the Barony Constables are generally stupid Men?

No, but very often they are so, and I would prefer any body to a stupid Man.

1306. Did you allow all the Applicants to prove that they were qualified?

I admit that I never went into a very minute Investigation.

1307. You gave them all an Opportunity of proving their Qualifications?

I generally did. I had a personal Interview with them. I saw them myself; and then I made Inquiries. I wished to avoid a political Character; a Party being a strong Politician. I thought it might be injurious to appoint such Persons.

1308. Did you inquire of Mr. Phelan whether Mr. Butler was a strong Politician?

I have no Doubt I did.

1309. What do you think was his Answer?

That he was not so strong a Politician as to render him ineligible.

1310. Did

1310. Did you ask the same Question respecting Mr. Fennell ?

No ; I do not remember bringing him into Contrast.

1311. Did you make any Inquiries at all respecting Mr. Fennell ?

No, I did not ; for I did not feel it to be my Duty ; I left it to the Assistant Commissioners.

1312. When you spoke of the Selection of Returning Officers, that was in your own District ?

Yes.

1313. Did you appoint Officers of the Constabulary as Returning Officers ?

Yes ; at Dublin we had the Chief Constable of Police.

1314. Under what Circumstances were those Chief Constables appointed Returning Officers ?

I think the Application was made to the Inspector General, to know whether he had any Objection to it, and I think it was ascertained that he saw no Objection to their being appointed.

1315. Did you find it very difficult to select Persons who were not Partisans ?

Yes, there was a good deal of Difficulty.

1316. Did it ever strike you that the Appointment of Officers of the Constabulary would have been an advisable Plan to pursue in Tipperary and Cashel, where Party Feeling runs pretty high ?

I did not give it much Reflection ; I like to assume only my own Responsibility, and not other People's.

1317. Can you at all account for this Circumstance, that the Letter sent to Mr. Fennell in reality is not a Copy of the Letter which is entered upon the Minutes ?

I cannot account for that at all.

1318. Had any body Authority to alter the Copy of the Register itself ?

I think if an Error had manifestly crept into the Register, that even Mr. Stanley, without the Authority of the Commissioner in Chief, would have the Power of altering it, but no one could with Propriety alter it to make it incorrect.

1319. But when one Letter says, " Your Letter did not arrive at this Office until after the Appointment was made in favour of another Person," and when the Original states, " until after the Assistant Commissioners of the Union had recommended the Appointment to be conferred on another Person," the Alteration there is exceedingly material ?

I do not think it so material ; I certainly should not like to have altered it ; I do not say I would have altered it ; but I do think that the Phrase " the Assistant Commissioners have recommended the Appointment to be conferred on another," and " the Appointment is conferred on another," is in reality not so different as it sounds, because the Fact was that the Commissioner in Chief had that Degree of Confidence in the Assistant Commissioners that he assumed they were fit to select the Returning Officers, and he would act upon their Suggestion.

1320. If they made a Return to this House ought they not to have made an exact Transcript of the Letter that was sent ?

Certainly, as a Matter of Opinion, I certainly say that they ought.

1321. Were you in Dublin in the Beginning of May 1839 ?

Yes, I was.

1322. When the Order of this House was sent over to Dublin for a Copy of the Correspondence relative to the Appointment of the Returning Officer of the Clonmel Union, did you give Directions to have that Return made out ?

I have no Recollection of having any thing to do with it. I think at that Time I was very much engaged with the Dublin Unions in preparing for the Return of Guardians in those Two important Unions, and I really do not think that I attended to much besides them.

1323. Who had Charge of the Duty of making the Return out ?

I think that is the Secretary's Duty in all Departments.

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1324. The

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*R. Larle, Esq.*  
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1324. The Inaccuracy to which your Attention has been called the House understands you to say you cannot attribute to any corrupt Motive?

I cannot apprehend a Motive, much less an unworthy Motive.

1325. How many Returning Officers have you recommended in your Capacity of Assistant Commissioner?

I think Six or Seven.

1326. Were those Appointments invariably acted upon by Mr. Nicholls?  
 Invariably.

1327. Do you know whether the same Course prevailed with respect to other Recommendations of other Assistant Commissioners in Ireland?

Yes; I am not aware of a single Case in which the Recommendation of the Assistant Commissioner was set aside.

1328. Therefore from your Experience you consider the invariable Practice of the Office to have been, that the Person recommended by the Assistant Commissioner was appointed?

Yes.

1329. Then practically you consider the Recommendation and the Appointment to be one Act?

I really do.

1330. Before you went to Ireland were you in the Employment of the Commissioners in England?

I was for Four Years.

1331. In what Part of England?

Northamptonshire, Warwickshire, and Staffordshire, and a Portion of some other Counties.

1332. Was the Pressure upon the Office in Dublin, during the Time of the Execution of your Duties there, as great or greater than that which you felt in the Execution of your Duties as Assistant Commissioner in England?

I think the Duties of Assistant Commissioner in Ireland were fully as great as in England. As to the relative Degree of Pressure upon the Two chief Offices I have no Means of contrasting them, for I was very little in London, to know what was going on there.

1333. Had you any Experience of Irish Business previously to your Appointment as Assistant Commissioner in Ireland?

I was with Lord Stanley, when he was Chief Secretary for Ireland, as Private Secretary.

1334. During the whole Time?

Yes.

1335. You say you cannot conceive what possible Motive there could have been for altering this Letter. Referring to the real Letter that was sent to Mr. Fennell, it states, "until after the Appointment was made in favour of another Person." If that Letter had been returned to this House as actually written, looking at the Letter from the Commissioners to Mr. Bagwell of the 11th of March, a direct Discrepancy would have appeared to exist, inasmuch as the Commissioners say, in that Letter of the 11th of March, "but that his Appointment has not yet been made." Now one or other of those must have been untrue, therefore you must perceive that the Discrepancy would have been apparent to their Lordships?

Yes, it would have been apparent. I have been misunderstood; I meant to say that I saw no Motive for deviating from my Minute.

1336. But, referring again to the Point, do not you perceive that there would have been a Discrepancy if the Alteration had not been made?

Decidedly.

1337. Then the Motive is apparent, that they were desirous that it should not appear, and they therefore altered the Letter?

I cannot say what the Motive was; that may be assigned.

1338. What

1338. Are not the Duties of Returning Officer extremely important in this respect, that he has great Power in the Election of Guardians?

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I think his Duties are very important in that light; and Impartiality is of very great Importance, in order to give Satisfaction to both Sides, beyond all Question.

1339. If a Returning Officer is inclined to act improperly, and does so act, has he not great Power in returning whom he pleases for Guardians?

Unquestionably he has.

1340. No one has the Power of looking over the Voting Papers which he receives?

Except the Commissioners, I apprehend; but I am speaking without having considered the Point. I should think they might summon him with the Papers, and examine them; I have examined them myself.

1341. Does not the Act of Parliament state that the Decision of the Returning Officer shall be final?

It does.

1342. Was any Objection made to your examining the Papers when you state you did examine them?

None whatever; the Returning Officers were rather glad of it.

1343. There was no Intimation of Objection?

Not the least; they were glad if we assisted them in the Scrutiny.

1344. In what Circumstances did that Scrutiny take place?

I recollect well one Instance at Dunshaughlin. I sat the greater Part of the Day; there was a disputed Return.

1345. What was the Complaint?

There was no specific Complaint, but only a Doubt as to which had the Majority.

1346. There was no Complaint of Falsification of the Papers?

None whatever.

1347. Is it your Opinion that at Clonmel and Cashel the Assistant Commissioners found some Difficulty in acting upon their Determination not to select political Partisans?

Very great Difficulty.

1348. Individuals had very strong Opinions on one Side or the other?

Yes; and unhappily Individuals of only one Side applied for these Appointments, for there is a general Belief that no Persons can get appointed but through the Government.

1349. Which was the one to which you refer?

The Side connected with the Government; but in the Case of the Poor Law Appointments it was entirely without Foundation, and yet Ninety-nine Hundredths formed that Opinion, and I account for it in that Way.

1350. You do not account for what has arisen in Clonmel by that Fact?

Mr. Butler, whose Opinions I believe to be in accordance with those of the Government, I dare say thought he had a better Chance.

1351. You do not account for what has arisen in Clonmel by that Circumstance, there being, in fact, Two Candidates for the Office.

No; my Remark does not apply so strongly to Clonmel, but I am speaking to the Appointments generally.

1352. In point of fact that was not the Case, to your Knowledge; the Government did not interfere in the Appointments?

Decidedly not. I have now left the Commission, and I can have no Motive for asserting it. I never knew less Interference in my Life; and Mr. Nicholls has over and over again congratulated himself that Government did not interfere in the Appointments.

1353. Are you of opinion, from the Evidence that has been given here, or from any Inquiry made by yourself, that the Appointment of Mr. Butler

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was in accordance with the Wishes of the Commissioners, or with their Instructions?

I have no Reason to think that it was not in accordance with the Wishes of the Commissioners at the Time the Appointment was made, or indeed now, for any thing I know.

1354. Do you consider that the Assistant Commissioners did their Duty in not inquiring respecting the Character of Mr. Butler of Persons of both Parties in the Town?

I think it was their Duty to ascertain Mr. Butler's Position in Clonmel, as far as regarded Politics; whether they did it or not I really am not here to say.

1355. You have no Knowledge, one Way or the other?

I have not.

1356. Do not you think it was their Duty to have communicated with Mr. Bagwell, who wrote the Letter which you see upon the Return?

If a Case had been made out, and I had had forwarded to me Mr. Bagwell's Letter, which in all probability I should have had, if I found that Mr. Bagwell was a Person whose Statements ought to have been inquired into, in all probability I should have inquired into them.

1357. Do you know Mr. Bagwell's Station and Character?

No, I do not, except from the Inquiry here.

1358. It appears from your Answers that Mr. Nicholls, as First Commissioner, did not interfere at all with the Patronage of the local Assistant Poor Law Commissioner?

No; it was scarcely regarded as Patronage; it was a very difficult Duty to find Persons, and the Salary was so trifling in Amount that I am sure I was surprised to find any one anxious to obtain the Situation of Returning Officer; 10*l.* or 20*l.* was all they got for the Situation.

1359. May there not have been some other Motive for their wishing for the Office?

Certainly; unworthy Motives may have induced Parties to come forward. I am not aware that any did so.

1360. May there not have been Motives independently of pecuniary Considerations?

Yes.

1361. May not that have been the Case with Mr. Butler?

Yes, it may.

1362. Did you ever hear that Mr. Bagwell was a Gentleman of Property?

I did not know him even by Reputation; I have never been in that Part of the Country.

1363. Were not the Assistant Commissioners directed to wait upon the Gentlemen of Property resident in the different Unions which they were forming?

Yes, I think they received general Directions to that Effect; it was my Way of doing Business; I generally did call upon a good Number, I cannot say all.

1364. If Mr. Bagwell possesses nearly the whole Town of Clonmel, do you conceive that it was only a proper Mark of Attention on the Part of the Assistant Commissioners to call upon such Persons?

I think I should have done it had I been the Assistant Commissioner charged with forming the Clonmel Union.

1365. Have you generally endeavoured to carry along with you the Feelings of the large Proprietors?

In every Way in my Power.

1366. Have any Instances occurred to your Knowledge of Persons appointed as Returning Officers having abused their Trust, and used improper Influence?

It has been imputed to Two or Three of them, but whether they were well grounded Imputations or not I really am unable to say.

1367. You are not aware of any Proof of such Misconduct?  
No; I think there was a good deal more Imputation than Proof.

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1368. Do you know any Case in which Inquiry by the Commissioners had been refused?  
No, I do not.

1369. You have said that it was very difficult to find Persons in Ireland to fill Offices of this Sort who were not imbued with strong Opinions on one Side or the other in Politics?  
It was unquestionably a Difficulty.

1370. If any Person having those strong Opinions had given Effect to them by making himself an active Partisan, or by voting, should you think that a Disqualification?  
I certainly should.

1371. Have you not heard of such Cases?  
Yes, I have. Parties have applied to myself, and I have told them candidly that I could not recommend them.

1372. Have you not heard of any Case or Cases in which Complaint has been made of a Returning Officer having improperly interfered to influence the Election of Guardians?  
I know of a Case that has been made public, the only one I bear in mind now, and that was the Case in the County of Clare, of Mr. O'Connell.

1373. Was not an Investigation refused by the Commissioners upon a Complaint being made against Mr. Butler of his having been concerned in getting one Davis to withdraw his Nomination, and to make a false Disclaimer?  
I have a very indistinct Recollection of that Transaction. I do remember, since I have seen it here, something of that Nomination, but it is so very vague that I should rather decline to say any thing about it.

1374. You are not aware that the Commissioners refused to investigate it?  
No, I am not.

The Witness was directed to withdraw.

Adjourned.





Poor Law Commission, Ireland.

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MINUTES OF EVIDENCE

TAKEN

BEFORE THE HOUSE OF LORDS

RELATIVE TO

CERTAIN RETURNS

MADE BY THE POOR LAW COMMISSIONERS TO ORDERS OF THE HOUSE

RESPECTING

The APPOINTMENT of JOHN BUTLER to the SITUATION of  
RETURNING OFFICER of the CLONMEL UNION.

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29th March 1841.

WILLIAM HENRY TOOVEY HAWLEY Esquire - page 131  
DENIS PHELAN Esquire - - - page 147

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*Die Lunæ, 29<sup>o</sup> Martii 1841.*

**T**HE Order of the Day being read for the Attendance of William Henry Toovey Hawley, Esquire, Assistant Poor Law Commissioner for Ireland ;—

Evidence respecting certain Returns made by the Poor Law Commissioners.

**WILLIAM HENRY TOOVEY HAWLEY** Esquire is called in ; and having been sworn, is examined as follows :

*W. H. T. Hawley,  
Esq.*

29th March 1841.

1375. YOU are an Assistant Poor Law Commissioner ?

I am.

1376. You were in Clonmel in the Month of February 1839 ?

I was.

1377. Were you applied to during the Time you were in Clonmel in the early Part of the Month by any Person to be appointed to the Situation of Returning Officer ?

On the 16th of February, the first Day I arrived in Clonmel, Mr. Butler called upon me, requesting to be appointed to that Office.

1378. Was not that on the Saturday ?

I believe it was ; I am not positive upon that Point.

1379. Did you write to Dublin on that Day, recommending Mr. Butler to the Commissioners for that Office ?

I did.

1380. Did you make any Application to any Persons in the Town of Clonmel respecting Mr. Butler ?

To several.

1381. To whom ?

I have at this Moment forgotten particularly who they were, but I can remember one who comes to my Recollection just at this Moment ; it is Mr. Bianconi.

1382. Had you any previous Acquaintance with Mr. Bianconi before your Arrival in Clonmel ?

Yes ; I had seen Mr. Bianconi before, on a previous Visit to Clonmel.

1383. Did you make any Inquiries of any other Person ?

I did, of several, but at this Moment I cannot remember who the Parties were.

1384. Did you know to what Party in Politics Mr. Bianconi belonged ?

I did not ; I had not the least Idea to what Party he belonged.

1385. What Instructions did you receive from the Commissioners with respect to the Appointment of Persons as Returning Officers ?

The Instructions were, that in Cases where County Cess Collectors could be appointed it would be desirable to appoint them as Returning Officers ; but I was not bound to any particular Rule as regards the County Cess Collectors ; I did in some Cases get them appointed, and in others I did not.

1386. Did you make any Inquiries in Clonmel respecting the Baronial Cess Collector, Mr. Fennell ?

I did.

1387. Of whom ?

My Inquiries were general ; I cannot remember to whom I applied.

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1388. Did

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1388. Did you inquire of Mr. Bianconi?

I dare say I did, but I do not remember at this Moment.

1389. What did you hear of Mr. Fennell when you inquired respecting him?

I have no Doubt that I heard that he was a highly respectable Person, and competent to undertake the Duties of the Office.

1390. Why then did you not recommend him for the Office?

I considered that he had sufficient to occupy his Time, from a Letter that he had written to the Office of the Commissioners stating that he could not get a Return made in the Time required; and I considered that the County Cess Collectors had sufficient Duties to prevent their undertaking the Duties of Returning Officer.

1391. If you thought that the Case with the County Cess Collector of Clonmel, why did you appoint County Cess Collectors in Three of the Unions of the County of Tipperary; viz. Clogheen, Nenagh, and Tipperary?

I appointed them because I considered them to be competent Persons.

1392. Perhaps you did not consider Mr. Fennell to be as competent as the Officers appointed for those Unions?

I had acquired more Experience when I got to Clonmel as to the Duties that the County Cess Collectors had to perform. I had no Reason in fact for not appointing Mr. Fennell beyond those I have stated.

1393. But the Business of Returning Officer does not occupy more than Two or Three Days a Year?

The Duties of Returning Officer unfortunately happen to come upon him at the Time when the Assizes are going on, generally about March, and it is then impossible for him to attend to both Duties; he has his County Duties, and also the Duties which would be devolved upon him under the Poor Law Act.

1394. What Duties has he at the Assizes?

I imagine many Duties, but I cannot speak to them; he would be required by the Magistrates.

1395. Are you aware that he attends only One Day before the Magistrates, in order to swear that his Accounts are correct?

I was not aware of that Fact.

1396. Was the first Intimation you received that Mr. Butler was anxious to be appointed Returning Officer of Clonmel on the 16th of February?

That was not the first Day; there had been a Communication made to my Colleague Mr. Hancock, who was acting with me at the Time, Two or Three Days previously to that.

1397. By whom?

Mr. Phelan, another Colleague of mine.

1398. Was that by Correspondence, or was it a verbal Communication?

By Correspondence.

1399. Is the Correspondence you allude to this: "Mr. Bianconi recommends most highly Mr. Butler for this Appointment of Returning Officer for Clonmel Union. He is the Nephew of Dr. Slattery, the Catholic Archbishop of Cashel; the only Archbishop of Cashel?"

I am alluding to a Letter written by Mr. Phelan to Mr. Hancock, recommending Mr. Butler, and I am also alluding to that Letter which has been now read.

1400. Did you see that Letter at the Time?

I had seen that Letter One or Two Days previously at Thurles, where Mr. Hancock met me, I believe; that was the first Time I saw that Letter.

1401. Did you make any Observation to Mr. Hancock upon the Subject of that Letter?

I cannot recollect what Communication I had with Mr. Hancock, but I have no Doubt that I said to Mr. Hancock that if we found Mr. Butler a competent

Person we would get him appointed to the Office, but I cannot recollect the particular Conversation that passed between myself and Mr. Hancock on the Occasion.

W. H. T. Hawley,  
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1402. Did you see the Letter sent by Mr. Butler to Mr. Phelan enclosed to Mr. Hancock ?

Not to my Recollection ; I do not remember that.

1403. That Note which you saw respecting Mr. Bianconi recommending Mr. Butler, and respecting the Archbishop of Cashel, was a Note on the Back of the Letter written by Mr. Butler to Mr. Phelan ?

I believe I have seen that Letter at the Office since, but I am not positive upon that Point.

1404. How could you have seen the Note on the Back of the Letter if you had not seen the Letter itself ?

I do not recollect seeing the Note, except at the Office.

1405. It is sworn that that Note of Mr. Hancock was written on the 12th ?

That was written on the 12th, I believe,—that Note on the Back of the Letter,—but I do not remember seeing Mr. Hancock write that Note, nor do I remember being cognizant of that Fact at the Time ; I was only cognizant of the Fact by seeing the Letter in the Office afterwards.

1406. Did you have any Communication with Mr. Bagwell, the Proprietor of the Town of Clonmel, upon the Subject of the Appointment of the Returning Officer ?

No ; I did not think it necessary. I had had an Opportunity of meeting all the Gentlemen of the County at the County Club House some Time previously to that, in January ; whether Mr. Bagwell was there I do not know, but I believe most of the County Gentlemen were assembled on that Occasion, and I suppose Mr. Bagwell was there, and I did not consider it necessary to call upon any of the Gentlemen, and if I had called upon them they were all in Clonmel, and it would have been useless to call at their Residences.

1407. You did not call ?

I make it an invariable Rule to call upon Gentlemen, but on this Occasion Mr. Hancock and myself had gone to Clonmel in order that we might meet the County Gentlemen, and open to them our Views, not on that Day only, but on several subsequent Days ; we were there Three or Four Days, and we were surrounded by Groups of Gentlemen from Time to Time, to whom we expounded the whole of the Plan we had for the Formation of that Union.

1408. In point of fact no Communication whatever was made to Mr. Bagwell, the principal Proprietor of the Town, the Person holding the largest Amount of Property in the Union ?

There was no direct Communication from myself, or from Mr. Hancock, that I am aware of ; certainly not from myself.

1409. Did you inquire into the Character of Mr. Butler, or his political Views ?

I inquired into his Character, but not into his political Connexions, for I have made it my invariable Rule never to mix up Politics and Religion with my Duty. Those were the Orders I received from Mr. Nicholls when I went down to that District, and I have invariably adhered to them throughout.

1410. What was the Tendency of the Replies you received to the Inquiries you made respecting Mr. Butler ?

The Replies were, that Mr. Butler was a highly respectable Man ; that he had retired from Business ; he was therefore, of course, a Person of Business-like Habits, a respectable Man in all Points, and qualified in all respects to act as Returning Officer. At the Time when Mr. Butler called upon us at the Hotel, when we met him, he sat with us for some Time, and we were examining him on all Points to test his Competency, and we considered him perfectly competent to execute the Duties.

1411. You did not ask him the Question whether he was a political Partisan ?

Not at all ; I should not have considered it my Duty to do that, because I

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*W. H. T. Hawley,*  
*Esq.*

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should have thought I was in that Case mixing up Politics with my Duty, which I have invariably avoided.

1412. It has appeared from the Evidence that the Commissioners directed the Assistant Commissioners to make such Inquiries, and not to appoint political Partisans ?

If any Person had stated to me that Mr. Butler was a Partisan, he was the last Person I should have appointed ; but I did not wish to put any leading Question to him as to what his Politics were.

1413. How could any body have known that he was to be Returning Officer till he was appointed ?

I ought to have used the Word recommended ; I had no Power of Appointment ; the Report of my Colleague and myself was merely recommendatory.

1414. Is not, in point of fact, the Recommendation the same as the Appointment ?

Not on all Occasions, because the Recommendations of the Assistant Commissioners have been reversed, when Things have come out which showed that the Persons recommended were not proper Persons for the Office.

1415. How many Cases of that Kind have occurred within your Knowledge ?  
I am not aware ; but that has occurred.

1416. Can you name One Case ?

I cannot at this Moment remember a Case.

1417. Can you bring to your Recollection a Letter that was sent to you, dated 18th March 1839, desiring you, in consequence of a Complaint from Mr. Bagwell, to make further Inquiries respecting the Character of John Butler ?

I remember the Letter.

1418. Where did you receive that Letter ?

To the best of my Recollection, at Tipperary.

1419. What did that Letter direct you to do ?

It was, I think, to make Inquiry, and report upon the Statements in Mr. Bagwell's Letter.

1420. Was Mr. Bagwell's Letter forwarded to you ?

It was.

1421. It says, " Upon minute Inquiries I am given to understand that Mr. John Butler is a most unfit Person for the Office of Returning Officer in this Union, for Reasons which it is unnecessary to state ; but if the Commissioners inquire I am certain they will agree with me and the other Land Owners in the Union." What Inquiries did you make upon receiving that Letter ?

I did not consider it necessary to make any Inquiry in consequence of that Letter, for I perceived by the Letter that no specific Case had been stated by Mr. Bagwell ; nor were any particular Names mentioned of Persons who had given that Information to Mr. Bagwell ; and as I had made Inquiries previously I thought no further Inquiries were necessary.

1422. Is this the Letter you sent in reply to that : " Mr. Butler is Nephew of the Roman Catholic Archbishop, Dr. Slattery, and has been strongly recommended to us ; he is a highly respectable Person, and his Unfitness for the Office complained of by Mr. Bagwell can only have reference to his Connexion with the Prelate above mentioned. I believe that his Appointment will give general Satisfaction in Clonmel." Was that the Letter you wrote in reply ?

That was the Note written on the Back of Mr. Bagwell's Letter that I sent back to the Commissioners.

1423. You did not consider it necessary to make further Inquiries after Mr. Bagwell's Observations ?

I did not ; I considered that if Mr. Bagwell had given the Names of any Persons who had made this Charge against Mr. Butler, or had stated a specific Case, it would have been my Duty to investigate the Matter to the Bottom,

but I considered that I had already made Inquiries which satisfied me that he was a fit Person to be appointed.

*W. H. T. Hawley,  
Esq.*

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1424. What Ground had you for supposing that the only Reason that Mr. Bagwell had for objecting to the Appointment of Mr. Butler was, that he was related to the Roman Catholic Archbishop of Cashel?

Hearing what I did of Mr. Butler's Character, I conceived that the only Objection Mr. Bagwell could have would be that he was so nearly connected with a Prelate of the Roman Catholic Church, and thereby would have Influence, which would be incompatible with his Duties as Returning Officer; that was all the Objection that I conceived he could have to Mr. Butler.

1425. Did you make any Inquiries in Tipperary with respect to Mr. Bagwell?

Not any?

1426. Are you aware that Mr. Bagwell has more than 10,000*l.* a Year Landed Property in the County?

I am quite aware of his high Standing and Position in the County.

1427. After such a Letter from Mr. Bagwell, did it not strike you that it was necessary to make further Inquiries?

I conceived that I had already made sufficient Inquiry to test the Character of Mr. Butler in Clonmel, where he would be better known than in Tipperary.

1428. The Commissioners state in reply to Mr. Bagwell, "The Poor Law Commissioners beg to acknowledge the Receipt of your Letter of the 12th instant, and having in consequence of it made further Inquiries as to the Fitness of Mr. John Butler for discharging the Duties of Returning Officer under the Poor Law Act in the Clonmel Union, they now desire to state that they have received strong Recommendations in favour of the Appointment, founded on Mr. Butler's personal Qualifications." It appears then that no further Inquiries were, in point of fact, made?

The Commissioners are speaking of themselves; they did make further Inquiries, by sending to me; but I certainly did not make further Inquiries.

1429. Then further Inquiries were not made, nor further Information obtained?

Not any, so far as I was concerned.

1430. The Commissioners selected you as the Channel for making the Inquiry?

Yes.

1431. And you made no Inquiry?

Not on that Occasion.

1432. Were you aware that the Office to which you were recommending Mr. Butler was one of great Responsibility?

I was quite aware of that.

1433. Were you aware that the Commissioners intrusted the Appointment very much to the Recommendation of the Assistant Commissioners?

I was also aware of that Fact.

1434. Then you were aware of the Fact that when you were called upon to recommend a Person for that Office the Recommendation would in all probability be attended to?

Yes, I was.

1435. You state that you came to Clonmel on the 16th of February?

Yes.

1436. You recommended Mr. Butler on that Day?

Yes.

1437. Had you come to Clonmel with a previous Determination to recommend Mr. Butler, or not?

Not at all with a previous Determination to recommend Mr. Butler, but with a previous Determination to see Mr. Butler, and to know whether he was competent for the Office, and if I found him so to recommend him.

(41.6.)

1438. And

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1438. And, in fact, you did recommend him on the very Day on which you arrived in Clonmel?

I did so.

1439. What Time had you for making the Inquiries necessary before you so recommended him?

I had arrived in the Morning, and I had not been in the Hotel more than Half an Hour before he called upon me, and he sat with me some Time, and I questioned him very strictly as to his Qualifications for the Office, and, from the Answers I got, I considered him a fit Person.

1440. Then you took the Recommendation of Mr. Butler from his own Statement of his Qualifications?

No. I was going on to say, that having seen Mr. Butler, I then thought it my Duty to make Inquiries in the Town of Clonmel, which I did shortly after he left us.

1441. Will you state the Names of any Persons to whom you applied, except Mr. Bianconi?

I am not able to state; I have been endeavouring this Day to recollect the Names, but I cannot. I made a Number of Inquiries in the Town.

1442. How long did you remain at Clonmel?

I was there on the following Day, the 17th, and a great Part of the 18th, and in the Evening I went back to Limerick.

1443. Did you reside any Time subsequently to these Transactions at Clonmel?

I was at Clonmel twice subsequently to that; I am not quite positive whether I was there twice or only once.

1444. Had you an Opportunity of becoming acquainted with the Individuals whom you consulted as to the Character of Mr. Butler?

I had no previous Knowledge of them; I only got acquainted with them from being in the Town, and being told they were the properest Persons to apply to, as being some of the most influential Persons in the Town.

1445. Who gave you that Information?

I do not at this Moment remember.

1446. Then you do not remember who told you that they were the most influential Persons, nor do you know who the Gentlemen themselves were?

No, I do not.

1447. You do not know the Names of the Persons who recommended Mr. Butler to you?

I do not remember at this Moment, except Mr. Bianconi.

1448. You stated in your Examination, that you did not think it necessary to apply to Mr. Bagwell, or to call at his House, because you knew you should meet the Gentlemen of the County at Clonmel; did you upon the Occasion of meeting the Gentlemen of the County at Clonmel consult any body respecting the Appointment of Mr. Butler?

Not at all; because the Appointment was not made till a Month subsequently to the Meeting of the Gentlemen of the County at Clonmel.

1449. Did you not state that as a Reason for not calling upon Mr. Bagwell, that you expected to meet him at Clonmel?

Not with respect to this Appointment.

1450. That was with respect to the Formation of the Union?

Yes.

1451. You did not mean to apply that as a Reason for not having consulted Mr. Bagwell on the Subject of this Appointment?

No, I did not.

1452. When you afterwards found that Mr. Butler was objected to, and you had seen this Letter from Mr. Bagwell complaining of his having been appointed to this Office, you did not call upon him or consult him?

I conceived from the Tenor of Mr. Bagwell's Letter, that he did not wish to mix

mix himself up with the Inquiry. He stated, "for Reasons which it is not necessary to state." *W. H. T. Hawley,  
Esq.*

1453. Did you not believe, when you wrote that Letter to the Commissioners in which you state that Mr. Bagwell's only Reason for objecting to him was, that he was connected with the Roman Catholic Archbishop, that the Commissioners would conceive that you had conformed to their Instructions in making fresh Inquiries respecting the Character of Mr. Butler? 29th March 1841.

No; it did not strike me so at the Time. I considered myself generally responsible to the Commissioners for the Information I gave them.

1454. Upon considering that Correspondence since, has it struck you that they might naturally have expected you to make fresh Inquiries respecting that Appointment?

No, it has not.

1455. Did you at any Time inform them that when you made the Recommendation you had done so on the Day you arrived in Clonmel, and that you had done so without knowing any of the Persons of whom you made Inquiries?

No, I did not; and never at any Time in the Appointment of Returning Officers have I thought it necessary to state to the Commissioners the Authority on which I had recommended any Person.

1456. You state that the Commissioners had given Instructions generally that a political Partisan should not be recommended; how did you ascertain that Mr. Butler was not a political Partisan? You state that you did not put any Question upon the Subject?

I did not ask any Question of any One as to his political Principles.

1457. How did you ascertain that you were acting in conformity with the Instructions of the Commissioners?

Because if any Person had stated to me that Mr. Butler had been a political Partisan I should have rejected him instantly.

1458. You state that you did not know the Persons to whom you applied respecting him?

I do not know the Persons as to their political Character.

1459. You did not know them personally?

No; I had no Opportunity of knowing them.

1460. Then you did not know whether they themselves were political Partisans? I did not know their Politics at all.

1461. Did you then take any Means whatever for carrying into effect that Instruction of the Commissioners?

Not at all, as far as that goes, because I put no leading Question upon that Subject at all.

1462. Did you conceive that you were conforming to those Instructions in the Inquiries you made respecting Mr. Butler?

I did, to the Letter.

1463. Did you hear from any of those Persons from whom you inquired, whom you do not know, that Mr. Butler was a Gentleman who had compounded with his Creditors?

I never heard it at all.

1464. You did not hear it when you were making those Inquiries?

I never heard it from any Individual at all.

1465. If you had heard that he was a Gentleman who had compounded with his Creditors should you have thought it proper to inquire further, or would you have recommended him at once?

I should have thought it my Duty to inquire further, and in all probability not to have recommended him to the Appointment.

1466. You stated that you inquired at Clonmel of Persons of the first Respectability; did you inquire of Persons of the Name of Moore, Morton, Malcomson, Grubb, or any of the leading Manufacturers and Merchants?

At this Length of Time I do not recollect the Names of any Parties, for my

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my Connexion with that Union was broken up immediately afterward, and it ceased to have any Interest with me, and I forget the Names of the Persons to whom I applied when I first went down to form the Union; at this Moment I cannot remember one of them.

1467. In your Answer to the Letter of the Poor Law Commissioners you said that you had made every possible Inquiry; are you of opinion now that you made every possible Inquiry into the Character and Situation of Mr. Butler?

I still retain that Opinion.

1468. You mean every necessary Inquiry?

Yes.

1469. On the Day that you dined at the County Club did you make any Inquiries of any Gentleman whom you met that Day at the County Club Dinner with regard to John Butler?

Not at all. I did not know that John Butler was in existence at that Time.

1470. When you state in your Reply to the Commissioners that Mr. Bagwell's only Objection was his Relationship to the Roman Catholic Archbishop, how did you ascertain the Fact?

I do not think I was at all justified in forming that Opinion of Mr. Bagwell, and I regret now that I ever did so; but I thought at the Moment that could be the only Objection he could have.

1471. Why did you think so?

I could not think of any other Reason.

1472. Did you make any Inquiries at the Time you formed that Opinion?

Not any.

1473. Does it not appear to you that it would have been right to make some Inquiries of Mr. Bagwell, instead of inferring that his Reason was of the Tenor you have stated?

I thought, from the Purport of the Letter, that he did not wish to mix himself up with the Matter.

1474. But, on Reflection, do not you think it would have been better?

I do, from all that has transpired since.

1475. Do not you think that you were passing a Reflection upon him in attributing to him this Motive?

Not the least; I had too much Respect for him, knowing the high Situation he held in the County, to pass a Reflection upon him.

1476. Then you do not think it is any Reflection upon a Person who makes a Complaint to say, that the only Reason for his complaining is that the Party complained of is a Relation of a Roman Catholic Archbishop?

No; I think it would have been a fair Objection if he had made it, because in that Situation Mr. Butler would have had an Influence which might have been incompatible with his Duties of Returning Officer.

1477. Then you do consider that a proper Objection?

If Mr. Bagwell had made that Objection I should have considered it a proper one.

1478. Did not Mr. Bagwell state that Mr. Butler was most unfit for the Situation?

I should wish to refer to Mr. Bagwell's Letter before I give an Answer to the Question. (*The Witness referred to the Letter.*) I perceive the Word "unfit" is used.

1479. Then you still maintain, that when Mr. Bagwell made use of that Expression he could only have considered Mr. Butler as unfit from his Relationship to the Roman Catholic Archbishop?

That was the Impression upon my Mind at the Time I wrote the Letter to the Commissioners.

1480. Did you know that Mr. Bagwell was in your immediate Neighbourhood at the Time you wrote that Letter?

Not at all.

1481. Were

1481. Were you aware that his Place of Residence was within a Mile of the Town of Clonmel? *W. H. T. Hawley,*  
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I was in Tipperary at the Time I wrote that Letter; but I had no Idea that his Residence was near the Town of Clonmel. 29th March 1841.

1482. The House then is to understand that you made no Inquiry, as to the Politics of Mr. Butler, of any one?

No, I did not.

1483. How then did you expect to be informed of that which, if it were the Case, was in the Opinion of the Commissioners a Disqualification for the Office?

I thought there would be plenty of Persons anxious to come forward to state any thing against him or against any body else, where there was an Office concerned, if he were a Political Character.

1484. You have stated that you were not aware of the Opinions or Politics of those whom you asked respecting Mr. Butler; why then do you suppose that they would have made an Objection to him on the Ground of his being a Partisan?

I hardly know.

1485. The House would desire to know how you meant to execute the Instructions of the Commissioners in respect to not appointing political Partisans?

What I meant to say was, that Persons on the other Side of the Question to whom I applied would in all probability represent him as a political Partisan.

1486. How do you know you applied to Persons on the other Side?

I do not know, but I dare say I applied to Persons on both Sides.

1487. You think you did?

I am sure I did.

1488. It was on the first Day of your Arrival at Clonmel that you made your Inquiries?

It was.

1489. You thought that that Inquiry was quite sufficient to justify your dispensing with the Instructions of the Commissioners in not making further Inquiries when they sent to you the Letter of Mr. Bagwell?

I knew that the Persons of whom I made the Inquiry were Persons competent to give the Information at the Time.

1490. How do you know that?

I was told so.

1491. Do you remember the Politics of the Person who told you that?

No, I do not.

1492. Was it Mr. Bianconi?

No.

1493. Did you, at the Time you made your Inquiries, know any thing of the Politics of those of whom you inquired?

No; but generally I made Inquiries previously as to the Persons whom I ought to apply to for Information when going down to form the Union.

1494. Did you make a Point of inquiring of those Persons?

Yes, always.

1495. With respect to Mr. Butler's Character?

I am now speaking of the Formation of the Union.

1496. Then did you, before you went down to Clonmel, make Inquiries as to the Persons whom you were to consult?

I did, to a certain Extent.

1497. Did you mark their Names down at the Time you received those Instructions?

I do not call to my Recollection any Note of the Names of the Persons. I was most anxious to remember some, but before I entered the House I could not remember any.

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1498. Do

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1498. Do you remember whether you took the Names down?  
I do not.

1499. Do you think you trusted to your Memory on going down to a new Place with regard to the Names of the Persons whom you were recommended to consult?

At this Moment I am trusting to my Memory; but at that Time I have no doubt that I had the Names written down.

1500. What is your present District?

The County of Limerick, the County of Clare, Part of the County of Tipperary, and Cork, and Kerry, and Galway.

1501. At what Period did you leave the Clonmel District?

I think within a Month from the Period to which this Inquiry extends. I had attended a Public Meeting at Clonmel previous to the Declaration of the Union, and I left it on that Day, giving it up to Mr. O'Donaghue.

1502. Without expecting ever to be called upon to return there?

Yes.

1503. You have then probably dismissed from your Mind the Names of those Individuals?

Perfectly. The Union ceased to interest me, and I had many Duties in other Places.

1504. You remember the Name of Mr. Bianconi?

I perfectly recollect the Name of Mr. Bianconi, for I consider him to be one of the most intelligent and clever Men I ever met with.

1505. Did you know him previously?

No; except from his public Character. I had heard of him before, and I was most anxious to be acquainted with him long before I thought of going down to Clonmel to form the Union.

1506. You attended a Meeting after the Formation of the Union?

Yes.

1507. Was Mr. Butler's Appointment known at that Time?

I have no Doubt it was known throughout the Town.

1508. Did you hear at that Time any Objection to the Appointment?

Not at all. That was one of the largest Meetings I ever attended under the Poor Law Commissioners. I stated to the Meeting then assembled the Proceedings that had taken place; and of course I stated that a Returning Officer would be appointed, and it was rather extraordinary that nobody asked me who the Returning Officer would be.

1509. Was Mr. Butler known to be appointed?

He was known to be appointed;—not known, because his Appointment was not known to take place then. I cannot state whether he was appointed at that Time, but my Report had gone up a Month before that.

1510. Can you state whether it was generally known in Clonmel that Mr. Butler had been so recommended by you?

That is my Belief.

1511. You do not know it as a Fact?

No.

1512. When you went to Clonmel, in the first instance, on the 16th of February, one of the Objects of your going was to appoint the Returning Officer?

It was one of the Objects.

1513. And you had provided yourselves with the Names of respectable Persons of whom you were to make Inquiries?

Yes.

1514. You first of all examined Mr. Butler yourself as to his Competency, and his Answers were satisfactory?

They were perfectly.

1515. Then

1515. Then you proceeded to those Gentlemen whose Names you had written down, to inquire of Mr. Butler?

Yes.

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1516. What was the Nature of the Inquiries you made?

As to his Character and Competency, and general Ability to undertake the Duties of the Office; but not One Word of his political Character.

1517. The Answers to all those Inquiries were satisfactory?

They were; but I would state at the same Time that my Applications to those Persons were not only to test Mr. Butler's Character or Competency, but on other Points respecting the Formation of the Union.

1518. When was that public Meeting held which you spoke of?

I am afraid I have not the Date of that Meeting here, but I think it was about a Month after the 16th of February; the Day to which I have been alluding as the Day on which Mr. Butler called upon me.

1519. That is exactly the Time when Mr. Bagwell's Letter was sent to you complaining of the Unfitness of Butler?

Then I think it must have been some Time subsequent to that, but unless I had the Dates before me I could not speak positively to that Point,—when the public Meeting was held.

1520. Which Hotel did you stop at in Clonmel?

I was at the Great Globe Hotel.

1521. What was the first Time you were in Clonmel?

On the 14th January 1839.

1522. How long were you there on that Occasion?

I was there during Four Days, or Part of Four Days.

1523. Were you in Clonmel again before the 16th of February?

Not before the 16th of February.

1524. Was Mr. Hancock with you on both Occasions?

He was.

1525. Had Mr. Hancock been in Clonmel between the 14th of January and the 16th of February?

I am not able to answer that Question; I am not aware whether he was or not.

1526. Did Mr. Hancock seem to be better acquainted with Parties in Clonmel than you were?

I think not. He knew more of the County generally, I should say, but I am not aware that he knew more Persons in Clonmel than I did myself. I think he met some old Brother Magistrates there, but beyond that I am not able to say.

1527. Had he not acted as a Stipendiary Magistrate in Part of the County of Tipperary previously to his being appointed an Assistant Poor Law Commissioner?

He had.

1528. In a Part of the County which was not very distant from Clonmel?

I think at Mitchell's Town, if I recollect rightly.

1529. Then his Business as a Magistrate would have taken him in that Direction frequently?

I suppose it would.

1530. Then it may be supposed that he would have an Opportunity of knowing the People there better than you would?

He would, certainly, in that Case; but I am not able to speak to Mr. Hancock's Knowledge of Clonmel or the People inhabiting it.

1531. Were you both together when Mr. Butler called upon you on the 16th?

We were.



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1532. Were you both together during all your subsequent Inquiries in the Town?

We were.

1533. Did you conceive it absolutely necessary that you should send off Mr. Butler's Recommendation to the Commissioners that Evening?

I believe the Reason why we sent it off that Evening was that we sent off the Tabular Form of the Union at the same Time, and it is the general Practice to send up both together.

1534. Did you mention to Mr. Hancock the Letter of the Commissioners desiring further Information?

To the best of my Recollection he was not with me at the Time.

1535. He was not in Tipperary?

No.

1536. Was there any Necessity for your sending the Letter on the Saturday, as it would arrive on the Sunday Morning?

There was no absolute Necessity, but as a Matter of routine of Business I sent it off that Night.

1537. Do not you think, in a Case of that Sort, the longer you make Inquiries and the more Individuals you see the better?

It is desirable, certainly.

1538. Was Mr. Hancock in Clonmel before you arrived?

We went together.

1539. Did he tell you before your Arrival that Mr. Butler had been recommended to him by any other Person?

Certainly.

1540. Then you came together with a Predetermination or a Predisposition in favour of Mr. Butler?

Not at all; not with a Predisposition in his Favour, because if other Candidates had offered themselves, we should have weighed all their Merits, at least that is what I should have done.

1541. In point of fact, you did come to Clonmel with a Knowledge that Mr. Butler was recommended to you?

Yes.

1542. Did you know who that Person was who had recommended him?

I did.

1543. Had Mr. Phelan also recommended him to you?

He had not.

1544. Did any one else apply to you for the Situation?

Not anybody else.

1545. Did you ask whether any other Persons were applying for the Situation?

No; it is not the Custom to solicit Candidates for the Situation, for generally we find there are too many in the Field.

1546. When did you learn that Mr. Fennell was a Candidate?

I cannot speak to that.

1547. Were you aware of that before Mr. Butler was mentioned to you?

I think not; he did not apply to me. It appears that he wrote to the Commissioners on the 15th of February.

1548. You were not aware of his being a Candidate at the Time you named Mr. Butler?

I can state positively that I was not the least aware of it.

1549. Are you quite certain that that Letter, dated the 16th, was posted on the 16th, or, by Accident, did you write it on the 16th and post it on the 17th?

No. I have a distinct Recollection of sitting down and writing the Letter in the Evening; I can state that positively.

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1550. What Time in the Evening?  
I cannot state.

1551. Before Dinner, or after Dinner?  
I cannot state positively.

1552. If you have a distinct Recollection of writing it on that Day, do you think it was before the Post goes out, or after?  
I cannot state.

1553. The Post goes at Half past Six ; do you think you wrote it before Six, or after Six?  
I cannot at all state when I wrote the Letter, but I have a distinct Recollection of having written it on that Day, and that Evening, I would say.

1554. Was much Notice given of this public Meeting to which you have referred?  
Every Notice ; both by Letters addressed to Gentlemen and by public Notices.

1555. Do you happen to recollect whether Mr. Bagwell was there?  
If Letters were sent to the Country Gentlemen generally throughout the Union, which I have no Doubt they were, Mr. Bagwell no Doubt got a Letter with the rest. It was our Custom to send Letters to all the Gentlemen in the District within which the Union was comprised.

1556. Did you send any Notice of your coming to Clonmel on the 16th to any of the landed Proprietors in the Union?  
No, I did not conceive it necessary ; for Lord Glengall had condescended to say that he would himself get all the Gentlemen together on the next Day, and we knew positively that we should see them all, as they would be all assembled on the Day of the Special Commission.

1557. Before you went there on the 16th had you written Letters to any of the leading Gentry within the Union, stating that you should be there on that Day?  
On the Day that I recommended Mr. Butler ? No, certainly not.

1558. Did you not consider it important to get the Opinions of Persons of that Consequence as to the Fitness of an Individual to be appointed to such an Office?  
I did, certainly.

1559. How were you to get those Opinions unless you saw them?  
I considered the best Way was to call upon Persons in Clonmel who best knew him.

1560. Not upon the Gentry in the Union?  
Not upon that Occasion ; I did not conceive it necessary to call upon the Gentry of the Union generally. I wish to state in explanation, that those public Meetings we have always been in the habit of convening before the Formation of an Union, bringing together all the Gentry of the County, and at Clonmel, as I stated before, we had a large public Meeting—I believe the largest that I ever attended in the course of forming the Unions ; and at those Meetings we expected that any Objection would be made or any Question asked with regard to the Appointment of Returning Officer or any other Proceedings connected with the Union.

1561. That was after the Recommendation of Mr. Butler?  
It was ; but still it was not too late to have made an Objection.

1562. But the Objection which was made appears to have been too late?  
I think the Objection was not too late ; because the Commissioners, if they had had any other Evidence before them of Mr. Butler's Incompetency, would have revoked that Appointment and have appointed another Person.

1563. How could they have revoked the Appointment, if there had been no Inquiry made?  
I considered that I had made every Inquiry that could have borne upon Mr. Butler.

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1564. But

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1564. But not that could have borne upon Mr. Bagwell's Representations? They were so general that I could not have acted upon them.

1565. Mr. Bagwell states in his Letter, "If the Commissioners inquire I am certain they will agree with me and the other Land Owners in the Union." You have stated that you did not inquire of any of the Land Owners in the Union respecting Mr. Butler's Character; here you have a Demand from Mr. Bagwell on the Part of himself and other Land Owners to make Inquiry into Mr. Butler's Character, and you make none; will you explain that Proceeding?

I had already made sufficient Inquiries in the Place where Mr. Butler was resident, and where he would be best known, and where I could get the best Information of his Character and Competency.

1566. You are not aware that every one of the Persons of whom you inquired were of his Politics, and his personal Friends?

I did not inquire respecting his Politics; but they were not his personal Friends.

1567. How did you know that?

I am hardly able to state how I know it; but I should consider not.

1568. They were all Strangers to you till that Day, and even now you do not remember the Name of one of them?

No.

1569. Do you think you are competent to state that they were not personal Friends or political Friends of Mr. Butler?

I am not able to state so far as that.

1570. In what Terms did the Commissioners give Instructions to the Assistant Commissioners respecting the Qualifications of those whom they were to select for Returning Officers? Were they verbal Instructions, or in Writing?

In Writing.

1571. Have you those Instructions with you?

I have not.

1572. Can you repeat them?

I cannot repeat the exact Words; but the Tenor of it was, that, in Cases where we found County Cess Collectors competent Persons, they were to be appointed in preference to others, and we were to take care that we appointed Persons fully competent to perform the Duties of the Office.

1573. Was there nothing in the Instructions with respect to not appointing political Partisans?

I believe there was; at any rate, subsequently Mr. Nicholls had given me positive Orders not to appoint any one who had the least political Bias.

1574. Do you think you fulfilled that Instruction when you made no Inquiry, as to the political Opinions of Mr. Butler, of any Individual?

I did not feel it my Duty to inquire. If any Person had stated that Mr. Butler had a strong political Bias, I should have rejected him at once under the Poor Law Orders.

1575. But the Instruction of Mr. Nicholls was, that you should not appoint any Person who was a political Partisan, and not merely that you should not appoint any Person who was objected to by Individuals on the ground of being a political Partisan?

My Impression is, that if I had asked the Question I should immediately have been mixing myself up with the Politics of the Town. I never mention Politics.

1576. Though your Instructions were, not to appoint a Person who was a strong Politician?

Certainly; and I should not have appointed him if I had been aware that he was a strong Politician.

1577. Did you make any Inquiry upon the Subject?

I did not.

1578. Do

1578. Do you then think that you were fulfilling the Instructions of the Commissioners? *W. H. T. Hawley, Esq.*  
I do. 29th March 1841.

1579. Do you not think that the Instructions of the Commissioners amounted to an Order to ascertain whether the Individuals were or were not political Partisans?  
I did not understand it in that Light.

1580. What do you understand by a Man being a political Partisan?  
I think I may state that almost every one in Clonmel is a political Partisan.

1581. Who did you understand were not to be appointed as being political Partisans?  
I had no clear Understanding upon the Subject; in short, I should have taken it very difficult to act upon it.

1582. You do not conceive that a Person giving a Vote at an Election is a political Partisan?  
No; I conceive that a Person has a Right to give his Vote.

1583. Or who proposes a Candidate?  
No.

1584. Or takes an active Part in a Canvass?  
No.

1585. Those are the Duties of a Citizen, under the Constitution?  
Certainly.

1586. Do you think the Instruction of the Commissioners was meant to apply to the constitutional Exercise of the Franchise?  
I do not think the Commissioners would have meddled with that.

1587. Then you do not think the Instructions of the Commissioners referred to the Exercise of those Privileges which have been described in the preceding Question?  
No.

1588. You stated that every Person in Clonmel was a political Partisan?  
Not at all. I did not mean that they were political Partisans, but that they had a political Bias one Way or the other; what I meant to state by that Observation was, that Party Feelings ran exceedingly high in Clonmel.

1589. Did you not then come to Clonmel with the Belief that a political Partisan might be recommended to you?  
No; I had no Idea of it at the Time.

1590. Did you then entertain a Belief that, if Mr. Butler was a political Partisan, some Person of the opposite Party would make it known to you that he was so?  
Certainly.

1591. Had you suspected that he was a political Partisan would you have made Inquiries of any Persons of the opposite Opinion?  
I will state that I had not the slightest Conception that he was a political Partisan; I certainly believed him to be on the Liberal Side, being a Roman Catholic.

1592. You asked then about his Religion?  
I knew by his Connexion with the Archbishop that he was a Roman Catholic.

1593. Have you ever heard of Individuals in Ireland called Pacificators?  
I believe I may have heard the Term.

1594. Would you consider a Pacificator a political Partisan?  
I do not understand the Term "Pacificator," though I have heard it used.

*W. H. T. Hawley,*  
*Esq.*  
29th March 1841.

1595. You have stated that you were referred, previously to coming to Clonmel, to Persons whom you were to consult there, but you have not stated who those Persons were who were so consulted; was Mr. Phelan one of them?

No, certainly not.

1596. Mr. Phelan did not recommend to you any Persons in Clonmel whom you were to consult with reference to the Character of the Person you recommended as Returning Officer?

Certainly not.

1597. Do you believe that he did to Mr. Hancock?

No, I believe not; though I cannot speak positively to it; but I should say certainly he did not.

1598. When do you think the Meeting you held in Clonmel took place; was it in the Month of January or February, or was it during the Special Commission for the Trial of Cooper?

That was during the Sitting of the Special Commission. I am speaking of the Meeting held at the Club House where Lord Glengall attended.

1599. The Question alludes to the first Meeting you held in Clonmel?

The first Meeting we held in Clonmel was a Meeting that Lord Glengall was kind enough to get up of the Noblemen and Gentlemen of the County.

1600. Nothing was then known about Mr. Butler, because he had not been appointed?

Not at all; we did not know that he was a Candidate for the Office.

1601. When was the other Meeting held?

That Meeting was held Two or Three Months (I forget the Day) after the Meeting at the Club House, and was the last Meeting that I held at Clonmel preparatory to the Declaration of the Union; it was the great public Meeting to which I have already alluded.

1602. Was any Allusion made to Mr. Butler at that Second Meeting?

Not that I am aware of.

1603. Was there any other Candidate for the Office?

Not that I am aware of; no Candidate ever made Application to me for the Office of Returning Officer.

1604. None was ever mentioned to you, and none was ever recommended to you?

No.

1605. Was it generally known that you were there to receive Applications for the Office?

I was not there to receive Applications for the Office, but it is well known throughout the Country that this Office is to exist under the Poor Law; and we always find that Applications are made Months and Months before the Appointment arrives.

1606. Were you not aware at that Time that Mr. Fennell had applied for the Office?

Not at all; he made his Application to the Commissioners on the 15th, which was the Day before I sent my Report up; but I had not an Idea at that Time that he was applying.

1607. When you saw Mr. Butler at Clonmel, did you tell him that you should recommend him.

I think it likely that I might, but I am not able to state positively.

1608. You stated in one of your Answers that you considered that his being the Nephew of a Roman Catholic Archbishop was itself a Disqualification; do you adhere to that?

No, I do not consider it a Disqualification at all; it certainly might give the Returning Officer a little Influence with respect to the Elections, but I do not consider it a Disqualification; quite otherwise, because, if it had been, I should have thought it my Duty not to recommend him, knowing that he was the Nephew of a Roman Catholic Archbishop.

1609. Do you mean that you would not have been surprised if Mr. Bagwell had considered it a Disqualification? *W. H. T. Hawley, Esq.*

I conceived that such an Idea had passed through Mr. Bagwell's Mind, but I stated before that I had no Right to make the Assertion. *29th March 1841.*

1610. What Influence could that Fact give the Returning Officer?

He would be cognizant of the Votes that would be given; the Parties might give their Votes, and he would know which Way their Votes were likely to be.

1611. If he acted honestly would that make any Difference?

No; I do not mean to impute Dishonesty to Mr. Butler; I only speak of the Possibility.

The Witness was directed to withdraw.

DENIS PHELAN Esquire was again called in; and having been sworn, was further examined as follows:

*D. Phelan, Esq.*

*29th March 1841.*

1612. You have stated that you have known Mr. Butler intimately for Twenty-seven Years in Clonmel?

I have.

1613. Do you recollect certain Parties of the Name of Michael Doheny, John Butler, and the Rev. Father Brennan having been indicted and tried for illegally, tumultuously, and unlawfully assembling by Force of Arms to resist the Collection and Payment of Tithes in the Year 1832, in the Summer Assizes at Clonmel?

I do recollect the Circumstance.

1614. Do you recollect those Men being sentenced to Four Months Imprisonment?

I do.

1615. Do you remember John Butler of Clonmel, John Hackett, and Mr. Butler commonly called Lord Galmoy pleading guilty to that Indictment?

I do recollect a Circumstance of that Nature. I do not know how many of them did plead guilty, but I know some did plead guilty, and I believe those were the Parties.

1616. Are you not certain that John Butler pleaded guilty to the same Indictment?

I believe he did.

1617. Are you not certain of the Fact; you were residing in the same Town?

No, I am not; I know that certain Parties did plead guilty; I believe those were the Parties, but I am not certain that Mr. Butler was one of them.

1618. Being an intimate Friend of his, surely you must have known that he pleaded guilty; have you any Doubt that he did?

I have not; but beyond that I have not any Knowledge upon the Subject.

1619. You are certain that the others pleaded guilty?

I recollect the Names of the others, and I think I may as positively state that Mr. Butler was one; but I have a better Recollection of the others from some Circumstance that occurred.

1620. After having known that Mr. Butler pleaded guilty to an Indictment of that Nature, for obstructing by Force of Arms the Collection and Payment of Tithes, you still recommended that Man as a proper Person to be Returning Officer?

I gave a Letter of Introduction or Recommendation, (it may be considered both,) considering Mr. Butler to be within the Character of a fit and proper Person; and I am of the same Opinion still.

1621. Did you hear that in the Month of January 1839, One Month before you recommended Butler to be Returning Officer of Clonmel, his Goods had been

(41.7)

*D. Phelan, Esq.*  
 29th March 1841.

been sold for a Debt of 38*l.* due to Wright and Stanley, the Hatters in Dublin, by Mr. Campbell the Sub-Sheriff?

I did not; I humbly beg leave to add that I was not in Clonmel at the Time; I was actively engaged in forming Poor Law Unions.

1622. Were any Relations of yours, your Wife's or others, residing in Clonmel?

Not one; I have no other Relation but my own Family.

1623. Were you in Clonmel in the Months of May, June, July, August, or September 1839?

No, I left it in October 1838, and have not returned ever since.

1624. Were you aware in October 1838 that the Sheriff was in possession of John Butler's House under a Writ of Execution, of which the Warrant was a subsequent Process?

I never heard of it.

1625. Though you knew him so intimately you were not aware that the Sheriff was in possession of his Goods under an Execution, for which the Warrant was the subsequent Process?

I swear positively that I have not the slightest Recollection of ever having heard that Mr. Butler's House was in possession of the Sheriff.

1626. What is that Warrant which you hold in your Hand?

It is signed by Francis A. Pretty, the High Sheriff, for the Sale of Goods and Chattels and so on to be found in his Bailliwick, on the 3d Day of November next.

1627. Whose Goods and Chattels?

John Butler's; November 1838. I was not in Clonmel at that Time.

1628. But you were in October when the Execution issued?

I left it on the 8th of October; I did not return there for Two Years afterwards.

1629. That is not the Execution, but the Warrant upon it?

I have no Recollection whatever of having heard of the Execution or the Warrant, or the Sheriff being in possession of his House or Property.

1630. You state in your Evidence, Page 87, "when called upon to make a Return to the Poor Law Commission of Documents necessary for Information of a Portion of the Clonmel Union, his" Mr. Fennell's "Return was a very insufficient one, and not such as showed Alacrity to give the Assistance which in my Opinion he should have given." Did you see those Documents?

I did.

1631. Do you consider that they were not sufficient?

I do. I do consider that they were not satisfactory, or such as Mr. Fennell should have given when the Application was made to him.

1632. Did the Commissioners find any Fault with him, or did they express that to him in Writing?

I have no Recollection of what was written to him on the Subject subsequently to that Letter being written; it was not my Union, and therefore I am not aware.

1633. That not being your Union, how came you to see those Documents respecting Clonmel?

They were shown me in the Poor Law Office shortly before I left Dublin, when this Inquiry was about to take place before your Lordships.

1634. Then it was your own private Opinion, and not the Opinion of the Commissioners?

I expressed my own Opinion.

1635. Did the Commissioners express any such Opinion to Mr. Fennell?

I am not aware that they did.

1636. Do

1636. Do you remember the Corn Exchange Agitators appointing Pacificators?

Yes.

*D. Phelan, Esq.*

29th March 1841.

1637. Will you take upon yourself to say that you were ignorant of Mr. Butler being appointed a Pacificator?

I took no Share in those Matters myself, and felt no Interest in them; I do believe that he was, but further than that I have no Certainty.

1638. Were you in Clonmel in 1837?

I was.

1639. Do you remember John Butler being summoned as a Witness before a Committee of the House of Commons?

I know he was.

1640. Are you aware that before that Fictitious Votes Committee, upon which he was summoned, he admitted that he was a Pacificator in 1836 and 1837?

I am not aware that he did.

1641. Do you consider a Pacificator a political Partisan?

He is a political Character.

1642. Is he a political Partisan in your Acceptation of the Word in your former Examination?

If by that is meant a Leader of a Party —

1643. You are not asked of any Meaning, but the Meaning which you attached to the Word in your former Examination; should you consider him a political Partisan?

Yes, I should.

1644. Did you know Butler to be a Pacificator?

I swear that I had not the slightest Recollection, and did not attach the slightest Importance to his being a Pacificator, if he be one. May I request that your Lordships will allow me to advert to a few Points in my last Evidence, to explain them? I was asked a Question whether the Members of the Quaker Society were active in political Matters in Clonmel, and my Answer is, that many were active and violent. I wish to correct that. At least what I should have said was, that I feel it due to the respectable Individuals belonging to that Society, that they are the reverse of all other Bodies, and, as far as my Knowledge goes, in the County of Tipperary. I was asked respecting Mr. Butler's Solvency and Composition; I stated at the Time my Disbelief of it, and I felt it due to your Lordships House and myself, in case I should be further asked, to make further Inquiries upon the Subject, and I have now a moral Conviction upon my Mind that he never compounded with his Creditors; that he was not an Insolvent or a Bankrupt.

1645. Do you consider a Person as making a Composition with his Creditors who when he gives up Business gives Bills for Three, Six, Nine, and Twelve Months, and Three and Four Years, for such Debts; do you understand by that his having entered into a Composition with his Creditors?

No, I do not. I understand by a Composition one who proposes to pay, and agrees to pay, less than 20s. in the Pound for Debts that he owes; and I swear that I believe Mr. Butler never did so, and that he is paying those Bills that he gave on his retiring from Business, and that is a very ordinary Matter in Ireland for Persons to give Bills of long Dates for Monies that they owe, when they are retiring from Business.

1646. Do you call that a Composition with his Creditors?

Not a Composition; it is a Number of Debts that he is paying, if I understand it, and Mr. Butler is paying them very honourably.

1647. Is it not a Proof of Insolvency when a Man is called upon on retiring from Business to give Bills for Three or Six Years?

I never so understood the Question. I was asked about his Bankruptcy and Insolvency, and a Composition, and my perfect Conviction is, that he never did one or the other, but that he is paying the Bills which he gave when he retired from Business.



*D. Phelan, Esq.*  
 29th March 1841.

1648. You were asked whether he had ever compounded with his Creditors ; and you said, to the best of your Belief he had not. You do not consider that a Person retiring from Business, and not able to pay, except by such long Bills, is in effect making a Composition with his Creditors ?

I do not look upon it in the light of a Composition ; it is not usually considered such. If your Lordships will permit me, I will advert to another Point. I was asked was I not cognizant of a Trial held in Clonmel, of Butler v. Butler, and I admitted that I had heard of it. I have since made Inquiry upon the Subject, and I swear that I believe no such Trial ever took place ; that there was an Arbitration ; that the Parties were Brothers ; that the Arbitrators awarded a certain Sum to Butler's Brother, and Mr. Butler has paid the Money.

1649. Do you swear that there was no Trial in the Court ?

I do swear that my Information is to that Effect, and I do believe it.

1650. Have you not seen the Evidence of Mr. Pedder, in which he swears that he was present at the Trial ?

I give the Impression upon my Mind, from having made Inquiries of Parties who have given me Information ; I place implicit Reliance on them.

1651. But are you prepared to say that there was not a Trial in the Court, when the Judge referred the Case to Arbitration to determine the Amount of Damages ?

I mean to say that it never came before a Jury ; that it was referred to Arbitration, and that there was no Trial.

1652. From whom did you receive that Information ?

From Dr. Sculley, in Clonmel, a Gentleman of the highest Intelligence and Integrity.

1653. Have you got his Letter ?

I have.

1654. Produce Dr. Sculley's Letter ?

There are Portions of it not immediately on this Point ; will your Lordships allow me to read that Part of the Letter which refers to this Point.

1655. Read it.

It is dated on the 25th. Dr. Sculley states, " I was speaking to Butler again To-day ; he reiterates the Assertion, that they are all false, and most certainly I never heard of them before ;" that is respecting his Bankruptcy and Insolvency and Composition. Dr. Sculley has lived many Years in the Town of Clonmel, and therefore can speak to it.

1656. Does he state that of his own Knowledge ?

He says, " and most certainly I never heard of them before this Affair. Respecting the Law Suit with his Brother, this never came to Trial." I humbly take Leave to mention this in confirmation of my own Views of it. " It appears it was left to Arbitrators, and that the Arbitrators, or rather, he says, Two of them out of Three, decided that he should pay 500*l.* He says he is still convinced that Right was on his Side ; and he says, further, that he agreed to that Arbitration contrary to the Advice of his Law Agent, Mr. John Green," a most respectable Attorney in Clonmel.

1657. Was not the Arbitration directed to be made by the Judge after the Case was sent down for Trial from Dublin ?

I believe it was sent down for Trial, but I have not any Information whether it was by the Judge. There is another Point that I would take the Liberty of adverting to. I was asked respecting Mr. Butler having a Freehold ; I am informed that he possesses a 50*l.* Freehold, that he holds it under Lives and Years, and that it is under the Earl of Glengall. I wish to give the fullest Information to your Lordships House. I feel that I was not, from the peculiar Position in which I was placed, able to do so on the last Occasion, but I have endeavoured to acquire all the further Information I could upon the Subject.

1658. At what Period did John Butler hold that 50*l.* Freehold ?

It is stated to me that he has Years and Lives of it yet.

1659. Is

1659. Is that lately stated by him to be the Case?  
The Letter is dated on the 25th or 26th.

*D. Phelan, Esq.*  
29th March 1841.

1660. Does he say the Quantity of Land that he holds to entitle him to that 50%. Freehold?

No; but it must be a considerable Quantity of Land to entitle him to vote.

1661. His Evidence before the Fictitious Votes Committee does not lead one to suppose so, unless it is lately acquired?

The Reason I place such Confidence in these Letters is, that knowing such an Inquiry as this is taking place, and that there are many Parties who would, if they had given incorrect Information, contradict them, I can scarcely believe that he would give any incorrect Information upon this Subject.

1662. Does he state where the Lands are?

He does; Gilganagh, I think, is the Town Land; he says, "I am Tenant to Lord Glengall for the Land of Gilganagh, out of which I have a Freehold, and have still Lives and Years for it, therefore you see I have some Claims on my Lord Glengall."

1663. Do you know what Barony it is in?

I do not know the Townland of Gilganagh; it must be either in Iffa East or West.

1664. Was it out of that Estate that he endeavoured to vote at Mr. Ball's Election?

I do not know; I think he endeavoured to vote for a County Vote, and that only Votes within the Borough were admissible. I wish further to correct that Portion of my Evidence in which I admitted to some Extent that Mr. Butler might have been reprov'd by the Magistrates; he was not reprov'd by the Magistrates on the Occasion of the Police.

1665. Are you certain that he was not brought before the Magistrates?

I am sure he was; my Recollection, is that the Police did summon him before the Magistrates. I would further take the Liberty of observing, that I felt extremely mortified that I could not recollect accurately, when I first appeared before your Lordships, the Circumstances of the Trial between Mr. Butler and his Brother. I have been since endeavouring to ascertain the Matter more correctly, and I now find that I was not in attendance on his Family continuously during the whole Period of my Acquaintance with him; and that though my Intimacy with him—perhaps I should more accurately call it my Acquaintance—continued during the whole Twenty-seven Years, I was not so much in the habit of seeing him during some Four or Five Years, and I think it is very probable that it was during that Period that that Trial took place. I take the Liberty of mentioning that to your Lordships in order to explain why I may not be so well acquainted with the Circumstance as your Lordships might have expected.

The Witness was directed to withdraw.

Adjourned.



Poor Law Commission, Ireland.

MINUTES OF EVIDENCE

TAKEN

BEFORE THE HOUSE OF LORDS

RELATIVE TO

CERTAIN RETURNS

MADE BY THE POOR LAW COMMISSIONERS TO ORDERS OF THE HOUSE

RESPECTING

The APPOINTMENT of JOHN BUTLER to the SITUATION of  
RETURNING OFFICER of the CLONMEL UNION.

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1st April 1841.

Mr. SKEFFINGTON ARMSTRONG - - page 155

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*Die Jovis, 1<sup>o</sup> Aprilis 1841.*

**THE** Order of the Day being read for the Attendance of Mr. Skeffington  
Armstrong ;—

Evidence re-  
specting certain  
Returns made by  
the Poor Law  
Commissioners.

**Mr. SKEFFINGTON ARMSTRONG** was called in ; and having been sworn,  
was examined as follows :

*Mr. S. Armstrong.*

1st April 1841.

1666. **WHAT** is your Situation in the Poor Law Office at Dublin?  
Clerk.

1667. In what Department?  
In the Order Department.

1668. Explain what that is?  
In issuing Copies of Commissioners Orders to the Clerks of Petty Sessions  
and Clerks of the Peace, and Treasurers and Secretaries of Grand Juries.

1669. Do you copy any Letters or Drafts, or Registers or Minutes of the  
Board?

I am not in the habit of copying any Drafts or Letters or Minutes.

1670. Were you in the Office of the Poor Law Commission in the Month of  
February 1839?

I was.

1671. Were you ordered at that Period to make Copies of any Minutes or  
Letters concerning the Affairs of the Clonmel Union?

I was not.

1672. Were you in the Office in the Month of May 1840?

I was.

1673. Do you recollect a Return being ordered to be made by this House  
in the early Part of that Month, and which Return was made to this House  
upon the 11th of May?

I recollect a Return having been ordered about that Time.

1674. Were you ordered to copy a Return to this House in the early Part of  
May?

I was.

1675. From what Documents were you directed to make that Return?  
From the original Papers in the Office.

1676. Did you commence the Work?

I did.

1677. Did you copy any Minute on the Register Book in order to make out  
that Return?

I did not.

1678. Who directed you to make that Return?

I believe the Chief Clerk, Mr. Wodsworth.

1679. You say you believe ; do not you remember?

I do not remember.

1680. You are not certain who it was who directed you to make out that  
Return?

I am not certain.

(41.7.)

1681. Who

Mr. S. Armstrong.  
 1st April 1841.

1681. Who was in the habit of giving you Directions upon this Subject?  
 The Chief Clerk, Mr. Wodsworth.

1682. Did you receive Instructions upon that Occasion in May from Mr. Stanley relative to the making out of that Return?  
 I did.

1683. You say you made out the Return from Letters in the Office?  
 Yes.

[The Draft of the Letter to Mr. Fennell, dated 18th February 1839, is shown to the Witness.]

1684. Was that One of the Letters you were directed to copy?  
 I cannot swear to it.

1685. Can you swear that it was not One of the Letters you were ordered to copy?  
 I cannot.

1686. Did you copy that Letter?  
 I cannot swear that I did copy that Letter.

1687. Do you swear that you never saw that Letter before?  
 I cannot.

1688. Will you swear that you did see it before?  
 I will not.

1689. In fact, you decline to swear either one Way or the other?  
 I do.

1690. Were there other Clerks employed besides you in making out that Return?  
 No, there were not.

1691. From what Document did you make out that Return before you?  
*(The Return ordered to be printed on the 11th of May being shown to the Witness.)*

From the original Papers.

1692. It has been stated by Mr. Stanley that this Letter, which has been shown to you, is the original Paper?

Then, I suppose, I must have made it from that.

1693. You are certain that you did not make that Copy from the Register Book?

Certain.

1694. From what other Document could you have made it but this Paper which has been placed before you?

None that I am aware of.

1695. Are you still uncertain with regard to this Paper having been the one from which you made the Copy?

Certainly; I cannot swear to it.

1696. When you were making out that Return, did Mr. Stanley give you any Instructions as to how you should make it out?

He did.

1697. State what those Instructions were?

By his Desire I copied the Words "Assistant Commissioner" into that Return.

1698. Were the Words "Assistant Commissioner" in the Document from which you were making the Return at the Moment?

They were not.

1699. He directed you to insert the Words "Assistant Commissioner"?

He did not direct me; he inserted it, and I copied it.

1700. He inserted those Words before your Face?  
He did.

*Mr. S. Armstrong.*

1st April 1841.

1701. After the Return was ordered by this House?  
He did.

1702. Was any Part besides those Words "Assistant Commissioner" interlined or altered at that Moment when he directed you to put in the Words "Assistant Commissioner," or when he put them into the Letter?  
There was no Alteration.

1703. Was there any apparent Alteration on the Face of the Letter when you commenced copying it?  
There was not in the Draft.

1704. When were those Alterations made?  
The Words "Assistant Commissioner" or "Commissioners" (I am not sure whether it was Plural or Singular) were added at the Time that the Return was ordered for the House of Lords.

1705. Did you receive any Instructions to make any Alterations in the Return with regard to the Appointment having been conferred or having been made?

I cannot say.

1706. But to the best of your Recollection you state that there were no Alterations or Interlineations on that Paper at the Time you received Instructions to make a Copy of it?

I do.

1707. Please to look at the Second Letter in the Return before you? (*The Witness referred to the same.*) From what Document did you copy that Letter, "Extract from a Report by Mr. Phelan"?

I cannot say. I suppose from the original Paper. I do not recollect.

1708. You do not recollect whether you were desired to make an Extract or to give an exact Copy?

I am sure I was not desired to make an Extract; but I cannot swear that I was not or that I was; I do not recollect it.

1709. Was it from the Register Book or from the Letter that you made that Copy?

It was not from the Register Book.

1710. Then the original Letter must have been before you?

I suppose it was.

1711. Did you make out the Returns presented to this House on the 15th of March 1841?

I did not.

1712. Who did?

I am not aware.

1713. Whose Duty was it to make it out?

It was the Duty of whomsoever Mr. Stanley directed.

1714. You cannot bring to your Recollection whether it was from the original Letter that you made the Copy of that Second Letter in that Return?

I cannot.

1715. Was any previous Return to this House placed before you at the Moment when you were instructed to make out a Copy of that Report of Mr. Phelan's?

I cannot say that there was.

1716. Had you any Communication with Mr. Phelan at the Time you were making out that Return of the 11th of May, when Mr. Stanley directed those Alterations?

None whatever.



*Mr. S. Armstrong.*  
1st April 1841.

1717. With any other Person?  
With no Person but Mr. Stanley.

1718. When Mr. Stanley returned to Dublin from the Investigation before this House had you any Communication with him on the Subject of these Returns?

I had.

1719. State what it was?

He asked me what I remembered about it, and I told him, and he said he thought I must be mistaken in Part of what I said, and in the other Part he said that he supposed, since I was so positive about it, as he did not himself recollect, that I must be right, and he was wrong.

1720. What did you tell Mr. Stanley?

I told him that when I got the original Paper to copy into the Return for the House of Lords I saw an Inconsistency between Two Letters in the same Return, and I mentioned the Fact to the Head Clerk, in whose Room I sat, who said I should mention it to Mr. Stanley, and I told Mr. Stanley that I had done so, and that he had altered the Draft in my Presence.

1721. Was that all?

That is all I stated to Mr. Stanley.

1722. What Part of that did Mr. Stanley say was incorrect, and what Part did he say was correct?

He said that he supposed I might be correct that the Words "Assistant Commissioner" was an Alteration he made in Pencil, but he conceived that the Words "conferred on" in Red Ink had been made previously.

1723. You stated that they were made at the same Time?

I did.

1724. And you believe it now?

I do.

1725. By whom were they made?

They must have been made by Mr. Stanley, as they were in his Handwriting.

1726. They are both in his Handwriting, are they?

Yes.

1727. You can swear to his Handwriting?

I can.

1728. One Alteration was "Assistant Commissioner"?  
"Assistant Commissioner" or "Commissioners."

1729. Upon what Occasion did he make that Alteration; was it made in your Presence?

It was.

1730. Who produced the Paper upon which he made it?

I did.

1731. You gave it to him?

I did.

1732. What did you state to him?

I showed him the Inconsistency between that Letter and another Letter in the same Return.

1733. And he made the Alteration of "Assistant Commissioner" in your Presence?

He did.

1734. In Pencil?

I cannot say whether it was in Pencil or not?

1735. You were understood to say just now that you told him that it was in Pencil?

No.

1736. What

1736. What was the Alteration he made in your Presence?  
He inserted the Words "Assistant Commissioner" or "Commissioners."

*Mr. S. Armstrong.*

1st April 1841.

1737. How did he insert them?  
He inserted them on the original Draft.

1738. In Pencil or in Ink?  
I cannot say.

1739. Did you see him do it?  
I did.

1740. Cannot you say whether it was in Pencil or in Ink?  
I cannot.

1741. Did he make any other Alteration?  
I am not aware.

1742. When was the other Alteration made?  
All I can swear is, that there was no Alteration made when I got the Paper to copy into the Return; the only Alteration I can swear to is the Words "Assistant Commissioner." They made an Impression upon me at the Time, because they changed the Import of the Letter.

1743. When he gave it back to you to make a Copy the other Alteration was not made?

I cannot say whether it was or not.

1744. Did you not say that there were Two Alterations, one in Pencil, and the other in Red Ink?

I saw that since.

1745. You did not see that at the Time?  
Certainly not.

1746. Are you sure that it was not there at the Time?  
I am not.

1747. Was there any body in the Room besides you and Mr. Stanley?  
No Person.

1748. You are sure that it was not there when you gave it into Mr. Stanley's Hands?

No.

1749. You are not sure whether he made the Alteration or not?  
I am not.

1750. You are not sure whether it was made at that Time or not?  
I am not, because I cannot recollect.

1751. Did you make the Return in the Form in which it was given back to you by Mr. Stanley?

I did.

1752. With the Words "Assistant Commissioners" ?  
I did.

1753. Were the Words put in Red Ink inserted in the Return?  
Wherever it was altered it was copied by me into the Return as it was altered.

1754. Do you recollect whether the Alteration made in Red Ink was copied into the Return?

I cannot recollect.

1755. Was the Discrepancy alluded to between the Two Letters the Inconsistency between the Letter written to Mr. Fennell and the Letter written to Mr. Bagwell?

I perceived the Inconsistency.

1756. That was the Point in which the Inconsistency consisted?

It was.

(41.7.)

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1757. When

*Mr. S. Armstrong.*  
1st April 1841.

1757. When you stated to Mr. Stanley that there was that Inconsistency between the Two Letters, namely, that in the Letter to Mr. Fennell it was stated that the Appointment had been conferred upon another Person, and that in the Letter to Mr. Bagwell it was stated that no Appointment had yet been made, what did Mr. Stanley say?

I cannot declare what he said.

1758. But he admitted that there was that Discrepancy?  
 He did.

1759. Did he state to you that it would not do for that to appear before the House of Lords?

I cannot say that he did?

1760. You have no Recollection of his using any Words of that Import to you?

No, I have not.

1761. You were present when he made this Alteration, by inserting the Words "Assistant Commissioner" or "Commissioners"?

I was.

1762. Were those the only Words he wrote?

The only Words which I can swear to by which Mr. Stanley altered that Draft.

1763. You saw him make that Alteration?

I did.

1764. You saw it before he made the Alteration; you took it to him?

I took the Return to him.

1765. And the Alteration he made was putting in the Words "Assistant Commissioner"?

Yes.

1766. And no other Words?

Not that I am aware of.

1767. Was it Sense before the Words "Assistant Commissioners" were put?  
 Perfect Sense.

1768. Leaving out the Words "Assistant Commissioners" the Sentence reads thus, "until after the for the Union had recommended;" do you consider that that would be Sense?

That was not the Letter.

1769. What was the Letter?

I cannot state what the actual Words of the Letter were.

1770. Look at the Letter?

[The Witness looked at the Letter.]

I believe,—I cannot swear to it,—but I believe that the Words of the Letter before they were altered by Mr. Stanley were, "In reference to your Letter of the 15th instant, I am directed to inform you that your Application to be appointed Returning Officer for the Clonmel Union did not arrive at this Office until after the Appointment had been made in favour of another Person;" I believe those were the Words.

1771. Then there were a great many other Words inserted besides the Words "Assistant Commissioners"?

Yes.

1772. Is this which has been shown to you the original Letter which Mr. Stanley altered?

I cannot swear to it.

1773. But you saw him write "Assistant Commissioners"?

I did.

1774. And nothing else?

I cannot swear that I saw him write any thing else.

Mr. S. Armstrong.  
1st April 1841.

1775. How was "Commissioners" written; at full Length, or how?  
I cannot declare.

1776. You can only say that you saw him write those Two Words, and you cannot tell whether you saw him write any others or not?  
Yes.

1777. Can you tell whether it was Sense when you took it to him?  
Perfect Sense.

1778. You observed him writing those Words; those Words particularly struck you, you say?  
Yes.

1779. You cannot tell whether there were any other Words written at the Time?  
I cannot.

1780. Were there any Red Ink Marks at that Time?  
I cannot say. There were no Alterations when I took the Letter to Mr. Stanley.

1781. But when you took it back from Mr. Stanley there were Alterations?  
There were.

1782. In Red Ink?  
I cannot say.

1783. Was there any other Alteration besides the Words "Assistant Commissioners"?  
I cannot say.

1784. You first say there were Alterations; you are afterwards asked whether there were Alterations, and your Answer is, that you cannot say; do you say that there were Alterations or not?

I do not say that there were Alterations, except what I can swear to; the Words "Assistant Commissioners."

1785. Do you say that there were any other Alterations?  
I do not.

1786. You cannot say whether there were any other Alterations?  
I cannot.

1787. Can you say whether there were any Alterations in Red Ink?  
I cannot.

1788. You are sure that that Alteration was made of inserting the Words "Assistant Commissioners," and you are not sure whether there were any other Alterations or not?  
Yes.

1789. Who gave you the Letter that you copied to make the Return?  
I believe the Head Clerk, Mr. Wodsworth.

1790. When you made those Copies, did you put them according to the Dates at which the Letters were written?  
I am not aware; I put them as they were numbered for me to copy; One, Two, Three, Four, and so on.

1791. This Extract of the Report of Mr. Phelan, No. 2., in the Return of the 11th of May, you will see is given without a Date; do you recollect whether you put a Date to it when you copied it?  
I cannot recollect.

1792. Do you think it is probable that you did put a Date to it when you copied it?  
I think it is probable I did not.

1793. Why do you think it is probable you did not put a Date to it?  
Because I do not recollect having received any Instructions to do it. My Instructions were only to copy what was before me.

(41.7.)

1794. Then

*Mr. S. Armstrong.*  
1st April 1841.

1794. Then you imagine that you had not the Original of this, but only an Extract from that Letter?

I cannot say whether I had.

1795. You believe that as this Extract has no Date no Date was given to you or else that you would have copied it?

Exactly.

1796. Consequently you state that you presume that an Extract alone of the Letter was given to you, and not the Letter itself?

I do not.

1797. You presume that nothing was given to you, but what you copied?

Exactly.

1798. And you would have copied the whole Letter if it had been given to you?

I should.

1799. And the Date?

And the Date.

1800. Did the Insertion of those Words by Mr. Stanley in your Presence reconcile the Discrepancy that you pointed out to him?

It did.

1801. You have been asked as to your Conversation with Mr. Stanley upon this Subject; had you any Conversation with any other Person previous to your Conversation with Mr. Stanley upon the Subject of your Recollection with reference to this Letter?

I had.

1802. Long before?

No; a short Time before.

1803. Who had you that Conversation with?

With Mr. Thom, the Printer to the Poor Law Commissioners in Ireland.

1804. With any other Person?

I had.

1805. Name that Person?

Mr. Walmisley, a Clerk in the Office.

1806. With any Person out of the Poor Law Office?

No; except Mr. Thom.

1807. At the Time of your first Conversation with Mr. Thom, was your Recollection as to this Transaction the same which you have now detailed to the House?

It was.

1808. At the Time the Alterations were made was there any Conversation between you and Mr. Stanley with respect to these Alterations or this Discrepancy?

No.

1809. You pointed it out to him, and he took it, and made the Alteration, and that was all?

Yes.

1810. You are sure that nothing more passed between you and him at that Time?

I am not sure; I cannot swear that there was nothing; but I do not recollect any thing.

The Witness was directed to withdraw.

Adjourned.

# MINUTES OF EVIDENCE

TAKEN UPON THE

SECOND READING OF THE BILL,

INTITULED

“ AN ACT to DISSOLVE the Marriage of JOHN HALL Esquire with  
“ JEMIMA CAROLINE his now Wife, and to enable him to marry  
“ again ; and for other Purposes therein mentioned.”

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Ordered to be printed 27th May 1841.

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(117.)



*Die Martis, 25<sup>o</sup> Maii 1841.*

**T**HE Order of the Day being read for the Second Reading of the Bill, intituled " An Act to dissolve the Marriage of John Hall, Esquire, with Jemima Caroline his now Wife, and to enable him to marry " again; and for other Purposes therein mentioned ;" and for hearing Counsel for and against the same ; and for the Lords to be summoned ;

Evidence on  
Hall's Divorce  
Bill.

Counsel were accordingly called in :

- And Mr. Austin appearing as Counsel on behalf of the Petitioner ;
- And no Counsel appearing for Mrs. Hall ;
- Mr. Austin was heard to open the Allegations of the Bill.

Then Mr. HENRY HOWLET was called in ; and having been sworn, was examined as follows : Mr. H. Howlet.

1. (*By Counsel.*) Are you a Solicitor?  
I am.
2. Did you serve Mrs. Hall with an Office Copy of the Bill?  
I did.
3. Upon what Day?  
On the 5th of April last.
4. Where?  
At Naples.
5. Did you also serve her with a Copy of the Order of the House for the Second Reading of the Bill?  
I did, at the same Time.
6. You say you served her at Naples ; where did you find her at Naples?  
I got Information that she was in a Yacht with Lord Ranelagh.
7. What is the Name of the Yacht?  
The " Harriet."
8. Was that Yacht off Naples at the Time?  
It was.
9. Did you send a Message on board the Yacht for her?  
I did ; I sent a Note to her.
10. Did you get an Answer?  
I did.
11. Was that Answer an Appointment to meet her?  
It was.
12. Where?  
At the Hotel de France.

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Mr. H. Howlet.

13. On the next Day, the 9th?  
Yes.
14. Did you meet her accordingly?  
I did.
15. Was she attended by any Persons? I do not want their Names.  
She came to the Hotel in a Coach with Two Gentlemen and her Maid.
16. Was that Maid Harriet Somers?  
It was.
17. How do you know that that was Mrs. Hall whom you served?  
I did not know her myself, but I had a Person with me who did.
18. Was that Person Henry Volmer?  
It was.
19. Was the Lady whom you served as you have described pointed out to you by Henry Volmer as being Mrs. Hall?  
She was.
20. Did you, on the 20th of last April, go to Florence, with a view to procure Evidence upon the Allegation in the Preamble of this Bill which relates to Senhor Figueroa?  
I did.
21. Did you apply to a Witness of the Name of Giovanni, a Waiter of the Hotel there?  
I did, at the Hotel de York.
22. Did you ascertain, upon examining Giovanni, that he was not able to prove the Identity of Mrs. Hall?  
I did.
23. In such a Manner that it became useless to bring him over?  
I thought he would be of no Use.
24. And all the rest of the Evidence upon that Allegation?  
Yes.
25. That is so?  
Yes.

The Witness was directed to withdraw.

Henry Volmer.

Then HENRY VOLMER was called in; and having been sworn, was examined as follows:

26. (*By Counsel.*) Were you Courier and Servant to Colonel Hall in the Years 1835 and 1836?  
No; not to Colonel Hall.
27. To Captain Ponsonby?  
Yes.
28. Was he travelling with Colonel and Mrs. Hall that Year, accompanied by Mrs. Ponsonby?  
Yes.
29. Were they travelling on the Continent?  
Yes.
30. Was Mrs. Hall in Ill-health?  
In rather a delicate State of Health.

31. She

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31. She had some consumptive Tendency ?  
Yes.
32. Did you become well acquainted with Mrs. Hall ?  
Oh yes.
33. Do you know the last Witness, Mr. Howlet ?  
Yes, I do.
34. Do you also know a Mr. Michael Gould ?  
Yes.
35. Were you present with Mr. Howlet and Mr. Gould on the 5th of April at the Hotel de France, at Naples ?  
Yes.
36. Did you see Mrs. Hall upon that Occasion ?  
Yes, I did.
37. The Lady whom you had known when travelling with Captain and Mrs. Ponsonby as Mrs. Hall ?  
Yes.
38. Did you point her out to the last Witness ?  
Yes, I did.
39. Did you see Mr. Howlet show any Papers to her ?  
I saw that he delivered some Papers to her.
40. Do you know a Mr. Eyre ?  
Yes.
41. Is that the Gentleman (*pointing him out*) ?  
Yes.
42. Were you at Pisa with Mr. Eyre on the 14th of July 1840 ?  
Yes, I was.
43. Did you see Mrs. Hall then ?  
Yes.
44. Did Mr. Eyre, in your Presence, serve Mrs. Hall with any Document ?  
Not in my Presence. I pointed out Mrs. Hall to him, and Mr Eyre and I went to the Hotel, and there Mr. Eyre served her with a Paper.
45. Did you see him do it ?  
No.

The Witness was directed to withdraw.

Then Mr. GEORGE JOHN EYRE was called in ; and having been sworn, was examined as follows : Mr. G. J. Eyre.

46. (*By Counsel.*) Are you a Solicitor ?  
Yes, I am.
47. Were you at Pisa on the 14th of July 1840 ?  
I was.
48. Did you go any where for the Purpose of serving Mrs. Hall, the Wife of Colonel Hall, with a Copy of the Divorce Bill ?  
I did.
49. Was that a Bill of the last Session of Parliament ?  
It was.
50. Was she pointed out to you by the last Witness, Volmer ?  
Yes.

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51. Did

Mr. G. J. Eyre.

51. Did you give to that Lady pointed out to you by Volmer, a Copy of the Bill?

Yes.

52. Did you explain to her what the Bill was?

Yes.

53. Did you also serve her with a Copy of the Order for the Second Reading?

I did.

54. And explain that also?

Yes.

The Witness was directed to withdraw.

Mr. W. Carlisle.

Then Mr. WILLIAM CARLISLE was called in; and having been sworn, was examined as follows :

55. (*By Counsel.*) Are you a Clerk to Mr. Burley of Lincoln's Inn?  
I am.

56. He is a Solicitor?

He is.

57. Conducting this Bill?

He is.

58. Do you produce an Extract from the Register Book of Marriages of the Parish of St. Marylebone?

I do. (*The Witness produced the same.*)

59. Is that an Extract of the Marriage of Colonel and Mrs. Hall?  
It is a true Copy as it appears in the Register for that Parish.

60. Did you examine it with the Original?

I did; this Morning.

The same was read as follows :

“ Marriages solemnized in Trinity Church in the Parish of Saint  
“ Marylebone in the County of Middlesex in the Year One  
“ thousand eight hundred and thirty-three.

“ John Hall, Esquire, of the District Rectory of Trinity in the  
Parish of St. Marylebone in the County of Middlesex, Bachelor, and  
Jemima Caroline Pole Carew of the District Rectory of Trinity in the  
Parish of St. Marylebone, Spinster, were married in this Church by  
Licence, this First Day of August in the Year One thousand eight  
hundred and thirty-three,

“ By me,

H. J. RIDLEY, Prebendary of Norwich.

“ This Marriage was solemnized between us - - -

{ JOHN HALL.  
JEMIMA C. POLE CAREW.  
ANNE ELLIS.  
HENRY W. BULLOCK.  
CHARLES O. ELLIS.  
Jos<sup>h</sup> POLE CAREW.  
T. SOMERS COCKS.  
CHARLES HALL.  
SELINA GARTH COLLETON.  
JEMIMA A. COCKS.”

“ In the Presence of - - -

“ No. 94.”

The Witness was directed to withdraw.

Then

( 7 )

Then Major CHARLES HALL was called in ; and having been sworn, Major Charles Hall.  
was examined as follows :

61. (*By Counsel.*) You are a Major in the First Regiment of Life-Guards ?

Captain and Brevet Major.

62. Are you a Brother of Colonel Hall ?

I am.

63. Were you present at his Marriage ?

I was.

64. Do you remember in what Year it was ?

In 1833.

65. Do you remember the Day of the Month, or the Month ?

The 1st of August.

66. Where did the Marriage take place ?

At Trinity Church, Marylebone.

67. Did they live together afterwards as Man and Wife ?

Yes, they did.

68. I believe Mrs. Hall's Health became disordered some Time after her Marriage ?

Yes ; she showed Symptoms of Consumption.

69. Did she go abroad with a view to Relief from that Complaint ?

She did.

70. With her Husband ?

With her Husband.

71. Do you know in what Year that was ?

In 1835.

72. And 1836 ?

And 1836.

73. Did they travel with Captain and Mrs. Ponsonby ?

I heard that they did.

74. You do not know that ?

I do not.

75. Did you see Captain and Mrs. Hall after their Return ?

I did.

76. Do you know whether Mrs. Hall was advised to go to Madeira or not ?

She was.

77. In what Year was that ?

In 1836 or 1837.

78. Did Colonel Hall go with her ?

He did.

79. Do you know whether he was ordered back to his Regiment while he was with her ?

He was.

80. Did they return in consequence ?

Yes, they did.

81. In the Spring of 1837 ?

Yes.

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82. I believe

- Major Charles Hall.
82. I believe her Health still continued indifferent, did it not?  
Yes.
83. Do you know whether Mrs. Hall afterwards left England in a Yacht?  
She did, in October 1837.
84. I believe you have not seen her since?  
I have not.
85. Do you know when Colonel Hall came back to England in 1838?  
In March, I think, but I am not certain.

The Witness was directed to withdraw.

- Mrs. Ann Ellis.
- Then Mrs. ANN ELLIS was called in ; and having been sworn,  
was examined as follows :
86. (*By Counsel.*) I believe you are Aunt to Mrs. Hall?  
Great Aunt.
87. Were you present at her Marriage with Colonel Hall?  
I was.
88. When was that?  
The 1st of August 1833.
89. Where was the Marriage celebrated ; at what Church did it take place?  
At Trinity Church, I think it was.
90. Marylebone?  
Yes ; Marylebone.
91. Do you know what Mrs. Hall's Name was?  
Jemima Caroline Pole Carew.
92. By whom was the Marriage performed?  
By the Reverend Henry John Ridley.
93. Was he a Prebendary of Norwich, do you know?  
He was.
94. Did you know Colonel and Mrs. Hall after their Marriage?  
Yes, I did.
95. Did you visit them?  
I did.
96. Had you many Opportunities of seeing how they lived together?  
Yes, many.
97. Did you visit them till they went abroad in the Year 1835?  
I visited them till the Year 1835.
98. Had you Opportunities of observing the Conduct of Colonel Hall to his Wife during that Time?  
Yes, frequently.
99. What was his Conduct?  
Extremely kind and indulgent in every respect.
100. Did you see them in the Year 1836?  
I did.
101. Did you learn from them that they had been abroad between the Time you had last seen them and the Year 1836?  
I did ; I dined with them.

102. Did you see them afterwards ?

No, I did not. Since the Year 1836 I have never seen Mrs. Hall.

Mrs. Ann Ellis.

103. Do you know whether her Health became bad again after her Return ?

I believe it did ; very.

104. Did you see her at the Time ?

Oh yes, frequently.

105. And her Health became very bad ?

Very bad ; consumptive, they thought.

106. Can you inform their Lordships whether Mrs. Hall has Relations at Lisbon and at Gibraltar ?

She has now Relations at Lisbon, but the Relation that she had at Gibraltar has now gone with his Regiment to Jamaica.

107. Who is the Relation whom you describe as living at Lisbon ?

Lord Howard de Walden.

108. Who was the Ambassador ?

He was, and is now.

109. Who is the Relation at Gibraltar ?

The Honourable Augustus Frederick Ellis, Lord Howard's Brother.

110. Was Mr. Ellis at Gibraltar in the Year 1838 ?

Yes, he was.

111. And 1837 ?

Yes, in the latter Part of 1837.

The Witness was directed to withdraw :

Then HARRIET WILLIS was called in ; and having been sworn, was examined as follows .

Harriet Willis.

112. (*By Counsel.*) Were you Lady's Maid to Mrs. Hall ?

Yes.

113. From the Time of her Marriage ?

Yes.

114. Up to what Time ?

May 1837.

115. Do I understand that you lived with her during that Period from the Time that she was married till May 1837 ?

Yes.

116. I believe there are no Children living of that Marriage ?

No.

117. There were not up to the Year 1837, when you left them ?

No.

118. Where did you leave Mrs. Hall ?

In the Island of Madeira.

119. Was that in May 1837 ?

Yes.

120. Did they return to England then ?

Mrs. Hall was left in the Island.

121. How soon after did she come back to England ?

In October following.

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122. Did

Harriet Willis.

122. Did you see her in October?  
Yes.
123. Did you see her before she left England in the Yacht in October?  
Yes.
124. How lately before?  
The Day previous to her leaving.
125. Have you seen her since that Time?  
No.
126. Had you in the Year 1837 been at Lisbon with Colonel and Mrs. Hall? Do you remember their dining at Lord Howard de Walden's?  
Yes.
127. Was that in the Year 1837?  
I think it was.
128. Did they dine at Gibraltar with Colonel Ellis?  
Yes.
129. Was that in the same Year?  
Yes.
130. You say you did not go with Mrs. Hall in October 1837; did you remain in England?  
Yes.
131. Do you know whether, in the Summer of 1838, Mrs. Hall's Return was expected by Colonel Hall?  
Yes.
132. Did you receive any Directions from Colonel Hall with respect to some Perfumery and other Articles?  
Yes.
133. What were your Directions?  
To procure them from the Perfumer, and send them out to Cowes.
134. For what Purpose?  
To wait her Arrival.
135. To wait whose Arrival?  
Mrs. Hall's Arrival.
136. At Cowes?  
Yes.
137. At what Time in the Year 1838 was that; do you remember the Month?  
I think it was in July, to the best of my Recollection.

The Witness was directed to withdraw.

Sir Henry Halford.

Then Sir HENRY HALFORD was called in; and having been sworn, was examined as follows:

138. (*By Counsel.*) I believe you attended Mrs. Hall as her Physician in the Year 1837?  
Yes.
139. Was it in the Summer of 1837?  
It was; the Beginning of the Summer.

140. I believe

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140. I believe that was the first Occasion that you had seen her ? *Sir Henry Halford.*  
It was.

141. Was it at her Husband's House in London ?  
I think it was.

142. I believe you saw Mrs. Hall afterwards at your own House ?  
She came down into Leicestershire.

143. Did she stay with you for a short Time ?  
Yes, for a short Time.

144. Will you tell their Lordships whether she was labouring under consumptive Symptoms at that Time ?  
She had Symptoms that gave me a Suspicion that there was a Disease of the Lungs which would profit by going abroad, and I recommended her to go abroad.

145. Did you recommend her to go to Lisbon ?  
To the Island of Madeira or Lisbon.

146. Did you recommend sailing ?  
Yes ; I thought that would be of use to her.

147. During the Time that you saw her and Colonel Hall, what was Colonel Hall's Behaviour towards his Wife ?  
Highly proper in every respect.

148. Was he also at your House with his Wife ?  
Yes, he was.

149. So that you had Opportunities of observing his Conduct ?  
Yes.

150. Do you know whether she went abroad, according to your Advice ?  
I believe she did ; I take it for granted that she did.

The Witness was directed to withdraw.

Then The Honourable Colonel CAVENDISH was called in ; and *Hon.Col. Cavendish.*  
having been sworn, was examined as follows :

151. (*By Counsel.*) I believe you command the 1st Regiment of Life Guards ?

I do.

152. Do you know Colonel Hall ?

I do.

153. Has he been in that Regiment with you for some Time ?  
Since 1821.

154. Did you know Colonel and Mrs. Hall ?

I did.

155. From the Time of their Marriage ?  
Not from the Time of their Marriage, but in 1835.

156. Do you remember Colonel Hall making an Application to you in December 1837 ?

I do.

157. What was that Application ?

It was for Leave of Absence for, I think, about Six Weeks, to enable him to go out to Mrs. Hall.

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158. Did



Hon. Col. Cavendish.

158. Did you learn where Mrs. Hall was at that Time?  
I think she was at Gibraltar.
159. Did you observe the State of Colonel Hall's Mind upon that Occasion?  
He was in great Distress.
160. Did he make any Representation to you as to his Wife's State of Health?  
He said she was in a very precarious State of Health.
161. Was that Leave of Absence obtained?  
It was.
162. Do you know whether he had any previous Leave of Absence for the Purpose of going abroad to his Wife?  
I rather think he had been to Madeira.
163. Had he been upon Leave of Absence?  
I think he had.
164. At that Time there were only Two Field Officers belonging to the Regiment?  
From the Beginning of 1837 there were only Two.
165. Who were they?  
Myself and Sir Henry Wyatt in the first instance; Colonel Hall had just become Major and Lieutenant Colonel.
166. And afterwards yourself and Colonel Hall were the only Two Field Officers?  
Yes.
167. When did Colonel Hall return after the Leave of Absence you have described?  
In the Beginning of February 1838.
168. From the Time of his Return in February 1838 has he, to your Knowledge, been with the Regiment?  
Generally speaking, he has been there.
169. With some few Exceptions?  
Every now and then he has been absent for a short Time.
170. Was it possible, under the State of Circumstances, for Colonel Hall to have obtained Leave of Absence after his Return in 1838?  
Certainly.
171. Was he wanted in the Regiment?  
He certainly was wanted in the Regiment; it is necessary that there should be always One Field Officer, if not both, there.
172. Then, as I understand, he could not have expected to have had any further Leave of Absence after the Leave of Absence he had before had?  
It might have been extended, but it was uncertain whether it would or not.
173. Was it in your Opinion proper for him to be with his Regiment during that Time?  
Certainly.
174. (*By a Lord.*) Do the House understand you to say that Colonel Hall was in this Country in February 1838?  
Yes.

175. (*By*

( 13 )

175. (*By Counsel.*) The Leave of Absence expiring about that Hon. Col. Cavendish.  
Time?

Yes, about that Time ; but I think he came back before the Leave expired.

The Witness was directed to withdraw.

The Counsel was directed to withdraw.

Ordered, That the further Consideration and Second Reading of the said Bill be put off till Thursday next.

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*Die Jovis, 27<sup>o</sup> Maii 1841.*

Evidence on  
Hall's Divorce  
Bill.

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**T**HE Order of the Day, being read for the further Consideration and Second Reading of the Bill, intituled "An Act to dissolve the Marriage of John Hall, Esquire, with Jemima Caroline his now Wife, and to enable him to marry again; and for other Purposes therein mentioned;" and for hearing Counsel for and against the same; and for the Lords to be summoned;

Counsel were accordingly called in.

*Harriet Willis.*

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Then HARRIET WILLIS was again called in, and further examined as follows:

176. (*By Counsel.*) You told me the other Day that you had lived with Colonel and Mrs. Hall from their Marriage till 1837?

Yes.

177. At what Time did they go to live at Wilton Crescent; do you recollect what Year?

To the best of my Recollection, it was about Six Months after the Marriage.

178. How long did they live at Wilton Crescent?  
Seven or Eight Months.

179. Where did they go to after that?  
To Clewer Green, Windsor.

180. How long did they live at Windsor?  
Nine or Ten Months, to the best of my Recollection?

181. Did they go abroad then?  
Yes.

182. Was that on account of Mrs. Hall's State of Health?  
Yes.

183. In what Year did they go abroad?  
To the best of my Recollection, in 1835.

184. What Time in the Year 1835?  
October, or the Beginning of November.

185. Did you accompany them?  
Yes.

186. Where did they go to?  
They went to Paris.

187. After that?  
They went to Nice.

188. Did they pass the Winter at Nice?  
Yes.

189. From thence they went to Rome?  
Yes.

190. When

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190. When did they return to England?  
To the best of my Recollection, in 1836.

*Harriet Willis.*

191. In what Month of 1836?  
In the Month of June, or the Beginning of July.

192. Did you still continue to stay with them?  
I did.

193. Did Mrs. Hall's Health get better or worse when she returned to England?  
Worse.

194. Where did they live?  
Park Street, Grosvenor Square.

195. Did they go abroad again?  
Yes.

196. When was that?  
In the same Year, October 1836.

197. Where did they go to?  
To the Island of Madeira.

198. Did you accompany them?  
Yes.

199. And they passed the Winter there?  
Yes.

200. At what Time did Mrs. Hall return from Madeira in 1837?  
You stated October in your former Evidence; I wish you to correct it, if it is a Mistake?

I left them at Madeira; she returned about July or August, to the best of my Recollection.

201. Then you continued to see her until October 1837?  
I saw her only Three Times during that Time.

202. You saw her a Day or Two before she left England in October 1837?

The Day before.

203. During all those Years what was the Conduct of Colonel Hall to his Wife?

Most affectionate.

204. Did you ever observe any other Conduct than that you have described during that Period?

No.

205. Is Harriet Somers a Relation of yours?

Yes.

206. Was she in the Service of Mrs. Hall at any Time?

Since I left.

207. Do you know where she is now?

No, I do not.

The Witness was directed to withdraw.

Then WALTER THOMAS PHILLIPS was called in; and having been sworn, was examined as follows:

*W. T. Phillips.*

208. (*By Counsel.*) Have you been engaged in commanding Vessels from the Port of London?

I have.

(117.)

209. For

W. T. Phillips.

209. For some Years?

Yes ; for some Years.

210. Were you engaged by Colonel Hall, in 1837, to command a Yacht of his ?

Yes, I was.

211. In what Month ?

In the Month of September I was engaged, to the best of my Knowledge.

212. What was the Name of the Yacht ?

The Owen Glendower.

213. Where were you to take command of the Yacht ?

At Cowes, I was to join her.

214. Did you do so ?

Yes, I did.

215. What Sort of a Vessel was she ?

A Cutter-rigged Vessel.

216. What Burden ?

About 112 or 113 Tons.

217. Was she well fitted up ?

She was when she left Cowes.

218. I believe she was fitted up in a remarkably good Style ?

Yes ; she was admired by every one.

219. So as to be fit for the Reception of a sick Lady ?

She was.

220. Was there a Lady's Cabin, a Sitting Cabin, and every thing necessary for her Accommodation ?

Yes.

221. Did Colonel and Mrs. Hall join you at Cowes or at any Place ?

I saw Colonel Hall at Cowes, and afterwards at Plymouth.

222. Where did they come on board ?

They came both together at Plymouth.

223. What Time in the Year 1837 was that ?

In the Month of October.

224. How many Hands had you on board ?

Eleven, myself included.

225. Was that a sufficient Crew for the Purpose of cruising in the Mediterranean ?

Quite sufficient.

226. Or in the Atlantic ?

Quite sufficient.

227. I believe you set sail for Lisbon ?

Yes, we set sail for Lisbon.

228. In the same Month of October ?

Yes, in the same Month of October.

229. Did you go to Cadiz ?

Ultimately.

230. And after that to Gibraltar ?

Yes.

231. At

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231. At what Time were you at Gibraltar ; in the Year 1837 or 1838 ?  
In the latter End of 1837, and in the Commencement of 1838  
also. *W. T. Phillips.*
232. Do you remember Colonel Hall leaving the Yacht at Gibraltar  
or Cadiz ?  
Yes ; at Gibraltar.
233. Was that on his Way back to England ?  
He returned in a Steamer to Cadiz.
234. On his Way to England ?  
Yes, on his Way to England ?
235. Did Colonel Hall take leave of his Wife at Cadiz ?  
Yes ; I followed the Steamer there in the Yacht.
236. Did you afterwards return with Mrs. Hall to Gibraltar ?  
Yes, I did.
237. After your Return to Gibraltar, did you take Cruizes during  
the early Part of the Year ?  
Yes, we did.
238. Mrs. Hall, I believe, was very much given to sailing ?  
Very fond of sailing.
239. Did the Sea Air seem to agree with her ?  
I think so.
240. Did her Health improve after she left England in October ?  
Very much improved.
241. When were you at Madeira ?  
To the best of my Recollection, we left Gibraltar in the Month of  
March 1838 for Madeira.
242. Did you return to Gibraltar again ?  
Yes ; remaining some Time at Madeira, and cruizing down to the  
Canary Islands, and returned to Gibraltar.
243. When was that ?  
About August 1838.
244. At that Time had Mrs. Hall's Health improved ?  
Very much improved.
245. At that Time were you proposing to return to England ?  
It was generally understood so.
246. You understood you were to return at that Time ?  
I did.
247. Did Mrs. Hall consent to return ?  
We talked it over, as a Matter of course, that we were to return.
248. You talked it over with Mrs. Hall ?  
Yes.
249. Did she consent to return then, or not ?  
According to my Opinion it was her Intention to return.
250. You thought so up to that Time ?  
Yes, I thought so.
251. Did she ultimately agree to return, or not ?  
She did not agree, because she did not return.
252. In consequence of her not agreeing, did you leave the Yacht ?  
I left on that Account.

(117.)

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253. At

W. T. Phillips.

253. At what Time did you leave the Yacht?  
In the Month of September 1838.
254. Up to September 1838 you had been constantly on board the Yacht with Mrs. Hall?  
Yes.
255. Were you at Lisbon in 1837?  
Yes.
256. Did you see there Lord and Lady Howard de Walden?  
Yes.
257. Did you see Colonel Ellis at Gibraltar?  
Yes, I did.
258. Did Mrs. Hall visit them?  
They visited us on board; and Mrs. Hall went ashore to Mr. and Mrs. Ellis's.
259. During all the Time you were with Mrs. Hall how near did you come to England from the Time you left?  
Not nearer than Lisbon to England.
260. What was your nearest Point from January 1838 when Colonel Hall returned to England?  
My nearest Point was Lisbon.
261. From that Time up to the Time you left the Yacht in September, are you able to tell their Lordships that Mrs. Hall was never in England?  
She was not in England.
262. You do not know when the Yacht came back?  
No, I do not.

The Witness was directed to withdraw.

John Bates.

Then JOHN BATES was called in; and having been sworn, was examined as follows:

263. (*By Counsel.*) Are you Secretary to the Yacht Club?  
Yes.
264. Were you so in the Years 1837, 1838, and 1839?  
Yes.
265. Do you know the Owen Glendower?  
Yes.
266. Did she belong to Colonel Hall?  
Yes; in 1837 and 1838.
267. Did you see her at Cowes in the Month of September 1837?  
Yes; August and September.
268. Was she a fine Vessel?  
Yes, very fine.
269. Was she fitted for the Reception of a sick Lady?  
Fitted up in every respect for an Invalid.
270. Had she a sufficient Complement of Men?  
Yes, quite.
271. And well appointed?  
Very liberally so.

272. From

( 19 )

272. From your Knowledge of the Subject, can you tell whether a considerable Sum of Money had been expended about her ?

John Bates.

I cannot speak to the Sum.

273. But it must have been a considerable Sum ?

Yes; a very considerable Sum; more than is usually expended upon a Vessel of that Size.

274. Is it your Duty to take note of all the Yachts belonging to the Yacht Club ?

Yes.

275. Where they are; upon what Cruizes they are; and so on ?

Yes.

276. Was the Owen Glendower a Yacht Club Yacht ?

Yes.

277. And Colonel Hall is a Member of it ?

Yes.

278. Do you know when she was expected back from her Cruise to Madeira ?

No, I do not.

279. Were you at Cowes in 1838 ?

Yes.

280. When did she come back ?

About the 12th of December 1838.

281. Were you at Cowes when she returned ?

Yes.

282. Had any Articles been sent to you from London to await the Arrival of this Vessel ?

Yes.

283. At what Time in the Year 1838 ?

I cannot recollect.

284. Was it in the course of the Summer ?

Yes, in the course of the Summer.

285. She returned in December ?

Yes.

286. Was Mrs. Hall on board ?

No, she was not.

The Witness was directed to withdraw.

Then MICHAEL GOULD was called in; and having been sworn, was examined as follows :

Michael Gould.

287. (*By Counsel.*) Were you Steward on board Her Majesty's Steamer "Blazer" ?

Yes.

288. Were you on board her in January 1839 ?

Yes.

289. Were you making a Voyage at that Time ?

We started from Gibraltar.

290. To what Place ?

To Malta.

(117.)

291. Making



Michael Gould.

291. Making your Voyage from Gibraltar to Malta?  
Yes.
292. Was there a Lady on board who called herself Somers?  
Yes.
293. Had she a Maid Servant with her?  
Yes.
294. Do you know the Name by which she called the Servant?  
No; she was considered as her Cousin.
295. Was she so represented by the Lady herself?  
By the Person who came to take the Cabin.
296. You, as Steward, understood that the Lady and her Attendant were Cousins?  
Yes.
297. On what Day did you leave Gibraltar?  
On the 19th of January.
298. Did you observe what Condition the Lady was in at the Time she came on board?  
Nothing remarkable.
299. Did you observe whether she was pregnant?  
No.
300. Was she delivered of a Child on board?  
Yes.
301. What Day?  
The Twentieth.
302. The next Day?  
Yes.
303. Did you see the Child after it was born?  
Yes.
304. Was the Child in the Hands of the Attendant who was called her Cousin?  
Yes.
305. Did you see it in the Arms of the Lady?  
No; not while it was alive.
306. Did you arrive at Malta?  
Yes.
307. About what Time?  
I think it was about the Eighth.
308. Of January?  
No; I beg your Pardon; about the Twenty-sixth.
309. Was the Child living at that Time?  
It was.
310. Did it afterwards die?  
Yes.
311. Was that soon after you got to Malta?  
I think about Three or Four Days; I cannot say to a Day.
312. Did you superintend the Arrangements for the Funeral of the Child?  
Yes.

313. Did

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Michael Gould.

313. Did you follow it to the Grave?  
Yes.
314. Did the Lady who called herself Somers, and her Attendant her Cousin, follow it to the Grave also?  
Yes.
315. Did the Lady return in your Vessel?  
No, she did not.
316. You left her at Malta?  
Yes.
317. And the Attendant too?  
Yes.
318. Were you at Naples on the Fifth of April last?  
Yes.
319. Did you see a Lady at the Hotel de France at Naples?  
Yes.
320. Were you in company with Henry Volmar at that Time?  
Yes.
321. And with Mr. Henry Howlet?  
Yes.
322. Did Volmar point out any Lady to you at the Hotel de France?  
Yes.
323. Was that the Person who was on board the Steamer under the Name of Somers?  
It was.
324. Did you learn from Volmar, who the Lady was you saw at that Hotel?  
Mrs. Hall.
325. The Person pointed out to you by Volmar as Mrs. Hall was the Lady who, under the Name of Somers, had been delivered of a Child on board the Blazer?  
Yes.
326. Did you see Mrs. Hall after that at Naples?  
Yes, I did.
327. Did you see the Attendant with her?  
Yes.
328. Did you learn from Mrs. Hall what that Attendant's Name was?  
No, I did not; but I learnt from her Sister; from the Attendant's Sister, whom I saw at Leghorn.
329. What was her Name?  
The Attendant's Name was Harriet Somers.
330. You say you spoke to the Lady; did you know her again as Mrs. Somers?  
Yes.
331. Did she recognize you?  
She did.
332. Did you speak of the Circumstance of her having been on board the Steamer?  
Yes.

(117.)

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333. From

Michael Gould.

333. From what she said did you learn that she was the Person who had been on board the Steamer ?

Decidedly.

334. Was Harriet Somers with Mrs. Hall when you left Naples ?

Yes, she was.

The Witness was directed to withdraw.

H. Trevan.

Then HENRY TREVAN was called in ; and having been sworn, was examined as follows :

335. (*By Counsel.*) In January 1839 were you Surgeon on board the "Blazer" Steamer ?

Yes.

336. Did you make a Voyage from Gibraltar to Malta ?

Yes.

337. What Day did the Vessel leave Gibraltar ?

The Evening of the 19th.

338. Was a Person calling herself Mrs. Somers on board ?

There was.

339. Was there an Attendant with her ?

Yes.

340. Do you remember the Way she used to address that Attendant ?  
As her Maid.

341. By what Name ?

I do not recollect.

342. Was the Lady brought to bed on board the Steamer ?

Yes.

343. What Day ?

On the 20th.

344. Did you attend her upon that Occasion ?

Yes, I did.

345. Did you see the Child in the Arms of the Mother and the Attendant after its Birth ?

Frequently.

346. When you got to Malta was the Lady recovered from the Effects of her Confinement ?

No, she was not.

347. She remained on board some Days ?

Several Days.

348. Then she went on shore at Malta ?

Yes.

349. I believe you left her there ?

Yes.

350. How long were you absent from England after the Month of January 1839 ?

Till last June.

351. Did you return last June ?

I returned to Woolwich last June.

352. June 1840 ?

Yes.

353. Have

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353. Have you been abroad since ?

No, not since.

Mr. H. Trevan.

354. Have you not been examined before in this Case ?

No, I have not.

The Witness was directed to withdraw.

Then THOMAS SOMERS COCKS Esquire was called in ; and having been sworn, was examined as follows :

T. S. Cocks, Esq.

355. (*By Counsel.*) I believe you married the Aunt of Mrs. Hall ?

I did.

356. Have you known Colonel Hall since the Time of his Marriage ?

Yes.

357. You are acquainted, of course, with Mr. Gerald Pole Carew, her Father ?

No ; he is her Uncle, and my Brother-in-law.

358. Did Mr. Carew at any Time make a Communication to you concerning Mrs. Hall's being delivered of a Child ?

Upon his coming home in July 1839.

359. Did he state the Circumstances under which she had been delivered ?

Yes.

360. In the Steamer ?

Yes ; in the Mediterranean.

361. Did you ask Advice of any of her Relations ?

I consulted Two or Three of her Relations and Friends, and afterwards communicated the Fact to Colonel Hall.

362. Do you remember when you made that Communication to him ?

Mr. Gerald Pole Carew came home in July 1839, and it was soon afterwards I made the Communication to him.

The Witness was directed to withdraw.

Then Mr. JOHN BURLEY was called in ; and having been sworn, was examined as follows :

Mr. John Burley.

363. (*By Counsel.*) You are a Solicitor, I believe, in Lincoln's Inn ?

I am.

364. Are you Colonel Hall's Solicitor ?

I am.

365. Do you remember Colonel Hall calling upon you for the Purpose of asking your Advice with respect to the Conduct of his Wife ?

Yes.

366. What Year was it ?

The 5th Day of July 1839.

367. Did you learn from him she had been delivered of a Child ?

I did.

368. Did you direct him what Proceedings should be taken ?

Yes, I did.

The Witness was directed to withdraw.

Then

William Carlisle. Then WILLIAM CARLISLE was again called in; and having been sworn, was examined as follows :

369. (*By Counsel.*) You have been examined before, and have stated you were Clerk to Mr. Burley ?

Yes.

370. Have the Papers in the Proceedings relating to Colonel and Mrs. Hall passed through your Hands ?

Yes, they have.

371. Do you remember Colonel Hall calling upon Mr. Burley in July 1839 ?

He did call ; I did not see him.

372. Did you learn from Mr. Burley that he had called ?

Yes ; on the same Afternoon he told me the Purpose of his Visit.

373. Were Proceedings instituted in consequence of the Information given to Mr. Burley ?

Previously to that Letters were written to several Persons in the Mediterranean likely to confirm the Rumours ; and upon those Answers being received, confirming the Rumours, Mr. Burley had Instructions to proceed ; and Proceedings were taken in the early Part of the Month of September.

374. When were Proceedings commenced in the Ecclesiastical Courts ?

About the 9th of September 1839.

375. Did you act upon the Opinion of a Civilian ?

Dr. Adams's Opinion was taken upon the first Occasion.

376. Did you act upon his Opinion afterwards ?

Yes.

377. And Proceedings were commenced in September 1839 ? Can you tell the Date of the Sentence ?

The 19th of May 1840.

378. I believe you were unable to procure the Attendance of Mr. Trevan, the Surgeon ?

None of the Witnesses on board the Blazer were present, the Blazer being then absent.

379. I believe the Case was made out in the Ecclesiastical Court by other Evidence ?

Yes.

380. By circumstantial Evidence ?

Yes.

381. Having obtained Sentence in May 1840, were Proceedings instituted in Parliament ?

They were instituted in Parliament in the course of the following Month.

382. A Bill was brought in ?

Yes, it was.

383. Have you looked at the Journals ?

Yes.

384. State the Day the Bill was read the First Time ?

Upon reference to the Journals it appeared that the Bill was presented

sented to the House, and read the First Time, on the 16th of June, and was then ordered to be read a Second Time on the 2d of July ; that on the 30th of June the Second Reading was postponed till the 16th of July ; that on the 14th of July the Second Reading was postponed to the 30th ; and that on the 30th of July the Order for the Second Reading was discharged.

*William Carlisle.*  
\_\_\_\_\_

385. Had Mr. Eyre been sent off by Mr. Burley to serve a Copy of the Bill upon Mrs. Hall ?

He had.

386. Had he returned at the Time the Order was discharged ?

No, he had not.

387. So that it was impossible to proceed with the Bill in that Session of Parliament ?

It was.

The Witness was directed to withdraw.

Then WILLIAM ANDERTON Esquire was called in ; and having been sworn, was examined as follows :

*W. Anderton, Esq.*  
\_\_\_\_\_

388. (*By Counsel.*) Are you Lieutenant and Adjutant in the First Regiment of Life Guards ?

I am.

389. How long have you known Colonel Hall ?

Upwards of Twenty Years.

390. Ever since his Connexion with that Regiment ?

Yes.

391. Will you inform their Lordships where that Regiment was stationed in January 1838 ?

At Windsor.

392. Up to what Time was it stationed at Windsor ?

Till nearly the End of June ; about the End of June.

393. From the End of June till the Summer of 1839, where ?

At the Regent's Park Barracks.

394. Colonel Cavendish was your Commanding Officer ?

Yes.

395. He is one of the Equerries to Her Majesty ?

Yes.

396. Was he in attendance at the Palace ?

Yes ; at that Time he was.

397. Was Colonel Hall left then in the actual Command of the Regiment ?

He was considered in temporary Command, generally.

398. Are you enabled, from a Reference to your Books, to inform their Lordships on what Days Colonel Hall was absent from the Regiment during all the Year 1838, and during the early Part of 1839 ?

I have made an Extract. (*Producing a Paper.*)

399. Is that Paper correctly extracted from the Books ?

I believe it is.

The same was delivered in, and read as follows :

W. Anderton, Esq.

A.

Lieut. Colonel Hall, 1st Life Guards.

	PERIOD.		NUMBER OF DAYS.	
	From	To	Present.	On Leave.
Present -	3d February	5th March	31	—
On Leave -	6th March	6th March	—	1
Present -	7th March	9th April	34	—
On Leave -	10th April	23d April	—	14
Present -	24th April	11th May	18	—
On Leave -	12th May	14th May	—	3
Present -	15th May	1st June	18	—
On Leave -	2d June	2d June	—	1
Present -	3d June	28th July	56	—
On Leave -	29th July	31st July	—	3
Present -	1st August	23d September	54	—
On Leave -	24th September	25th September	—	2
Present -	26th September	23d October	28	—
On Leave -	24th October	25th October	—	2
Present -	26th October	14th November	20	—
On Leave -	15th November	16th November	—	2
Present -	17th November	8th December	22	—
On Leave -	9th December	11th December	—	3
Present -	12th December	16th December	5	—
On Leave -	17th December	17th December	—	1
Present -	18th December	3d January 1839	17	—
On Leave -	4th January	3d February	—	31
Present -	4th February	5th February	2	—

400. What is the longest Time during which Colonel Hall appears to have been absent during that Period?

Thirty-one Days he appears to have been absent, and that only on one Occasion.

401. Was that in July?

That was in January 1839.

402. You mean he was absent during the Month of January 1839?

Yes.

403. He was also absent at Easter in the Year 1838?

What Month was that in? It was from the 10th to the 23d of April.

404. That was the next longest Absence?

Yes, it was; the other Periods of his being absent did not exceed Two or Three Days.

The Witness was directed to withdraw.

John Hall, Esq.

Then JOHN HALL Esquire was called in; and having been sworn, was examined as follows:

405. (*By Counsel.*) I believe you live at Weston Colville in Cambridgeshire?

Yes.

406. Are you the Father of Colonel Hall?

Yes.

407. Do

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407. Do you remember your Son being with you at Easter in John Hall, Esq.  
1838 ?

Yes.

408. How long a Time ?

About a Fortnight ; I cannot say to a Day ; about that Time.

409. Did he occasionally come down to see you at other Times ?

Perpetually,—constantly.

410. During 1838 ?

Yes.

411. Up to the last Time you saw Mrs. Hall, there were no Children  
living ?

No ; there was no Possibility of it ; nothing like it.

412. There were none ?

No.

The Witness was directed to withdraw.

The Counsel stated, he had closed his Evidence in support of the  
Bill.

The Counsel was directed to withdraw.

Ordered, That the further Consideration and Second Reading of the  
said Bill be put off *sine Die*.

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# PROCEEDINGS

(On the Ecclesiastical Side of the Supreme Court of Judicature of Bombay)

ON

## THE BILL

INTITULED

“ An Act to DISSOLVE the Marriage of JOHN PASCAL LARKINS,  
“ Attorney at Law, with ELIZA BIRD his now Wife, and  
“ to enable him to marry again; and for other Purposes  
“ therein mentioned.”

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Ordered to be printed 11th February 1841.

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(8.)



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PROCEEDINGS, &c.

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Warrant. { To the Honourable Sir John Wither Awdry, Knight, Chief Justice, and Sir Henry Roper, Knight, Judge of the Supreme Court of Judicature of the Presidency of Bombay, or other the Judges of the same Court.

**W**HEREAS by an Act of Parliament passed in the First Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to enable the Examination of Witnesses to be taken in India in support of Bills of Divorce on account of Adultery committed in India," after reciting that much Inconvenience had arisen to His Majesty's Subjects in India petitioning either House of Parliament for Bills for the Dissolution of Marriages by reason of Acts of Adultery committed in India, from the Difficulty of producing in England the Evidence necessary to substantiate the Allegations of such Bills, and that by reason of the Religious Scruples of several of the Natives of India it is impossible to prevail upon them to come to England for the Purpose of being examined as Witnesses at the Bar of either House of Parliament, it is enacted, that whensoever and as often as either House of Parliament, upon the Petition of any Party for a Bill for the Dissolution of any Marriage, and stating that the Witnesses necessary to substantiate the Allegations of such Bill are resident in India, shall see Cause to direct that the Examinations of such Witnesses shall be taken in India, the Speaker of such House of Parliament shall thereupon issue his Warrant or Warrants to the Judges of the Supreme Court of Judicature of the Presidency of Calcutta, the Judges of the Supreme Court of Judicature of the Presidency of Madras, the Recorder of the Presidency of Bombay, or the Judges of the Supreme Court of Judicature of the Island of Ceylon respectively, accordingly as the Witnesses proposed to be examined shall be resident within any One or more of the said Presidencies or the said Island, for the Examination upon Oath of all such Witnesses as shall be produced before them touching the Allegations of such Bill, and touching any Notices or other Matters which shall in such Warrant be specified; and that in all Cases where such Warrants shall be so issued, Duplicates of such Warrants, together with Copies of such Bill, shall be transmitted by different Ships, at the Desire of the Agent of the Party or Parties soliciting such Bill, to the Persons to whom such Warrants shall be directed: And it is thereby further enacted, that in all Cases, immediately upon the Receipt of such Warrant or Warrants, the Judges or Recorder to whom the same shall have been directed shall appoint some Time or Times with all convenient Speed for the Examination of Witnesses, and receiving other Proofs touching the Allegations of the Bill, and in opposition thereto, and touching such Notices and other Matters as shall in such Warrant have been specified, and in the meantime shall cause

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such

such public Notice to be given of such Examination, and shall issue such Summons or other Process as may be requisite for the Attendance of Witnesses and of the Agents or Counsel of all or any of the Parties respectively, and of such other Witnesses as after mentioned, and to adjourn from Time to Time as Occasion may require; and such Examinations as aforesaid shall be then and there openly and publicly taken, vivâ voce, upon the respective Oaths of Witnesses and the Oaths of skilful Interpreters, administered according to the Forms of their several Religions, and shall by some sworn Officer of the Court be reduced into Writing, and that Two Copies thereof shall be made, and that the Judges or Recorder, before whom such Examination shall have been taken, shall certify the same under the official Seal of their several Courts, together with a Declaration of such Judges or Recorder, that such Examinations have, in their or his Judgment, been fairly and properly conducted, and that all such Witnesses had been produced as were fit to be produced for the Purpose of ascertaining the whole Truth, so far as the Attendance of such Witnesses could be reasonably obtained, and shall transmit the same by different Ships to the Speaker of either House of Parliament under whose Warrant such Examination shall have been taken; and every such Examination so returned to the Speaker of either House of Parliament, as aforesaid, shall be competent and admissible Evidence, and shall be allowed and read in both Houses of Parliament, or either of them respectively, as Occasion may require; any Law or Usage to the contrary notwithstanding: And it is further enacted, that it shall and may be lawful for such Judges or Recorder, upon any such Examination, to ask any such Questions of any Witness who shall be produced before them or him, and to require such further Witnesses resident within such Presidency or Island respectively to be produced as shall appear fit and necessary for the due Investigation of the Allegations of such Bill, or of any other Matters in such Warrants specified, and to allow such Attendance by Counsel, and such Cross-examination of Witnesses, as shall be deemed by such Judges and Recorder to be fit and proper for the Purpose of such Investigation; and for such Purpose, if necessary, to name some proper Person or Persons to attend as Counsel and Agent in opposition to such Bill, and to procure any Evidence which may be necessary for the Purpose of such Opposition, to the end that a full and fair Disclosure may be made of all the Facts and Circumstances of the Case.

And whereas by another Act of Parliament passed in the Fourth Year of the Reign of His said Majesty King George the Fourth, intituled "An Act for defraying the Charge of Retiring Pay, Pensions, and other Expenses of that Nature, of His Majesty's Forces serving in India; for establishing the Pensions of the Bishop, Archdeacon, and Judges; for regulating Ordinations; and for establishing a Court of Judicature at Bombay," it was amongst other things enacted, that it should be lawful for the Supreme Court of Judicature at Madras, within Fort Saint George and the Town of Madras and the Limits thereof, and the Factories subordinate thereto, and within the Territories which then were or thereafter might be subject to or dependent upon the Government of Madras, and that it should be lawful for the Supreme Court of Judicature at Bombay, to be created by virtue of the now reciting Act within the said Town and Island of Bombay and the Limits thereof, and the Factories subordinate thereto, and within the Factories which then were or thereafter might be subject to or dependent upon the said Government of Bombay, and the

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the said Supreme Courts respectively were thereby required, within the same respectively, to do, execute, perform, and fulfil all such Acts, Authorities, Duties, Matters, and Things whatsoever as the Supreme Court of Fort William was or might be lawfully authorized, empowered, or directed to do, execute, perform, and fulfil within Fort William in Bengal aforesaid, or the Places subject to or dependent upon the Government thereof.

And whereas since the passing of the said last-recited Act the said Court of the Recorder of Bombay has been abolished, and a Supreme Court of Judicature at Bombay has been appointed, according to the Provisions of the last-recited Act.

And whereas a Bill hath been brought into Parliament, and is now depending in the House of Lords, intituled " An Act to dissolve the Marriage of John Pascal Larkins, Attorney at Law, with Eliza Bird his now Wife, and to enable him to marry again ; and for other Purposes therein mentioned ;" and thereby, after alleging, showing, or reciting, that on the Twenty-first Day of October One thousand eight hundred and twenty-nine the said John Pascal Larkins was lawfully married at Islington in the County of Middlesex, according to the Rites and Ceremonies of the Church of England, to Eliza Bird Larkins, then Eliza Bird Andrews, Spinster : That the said John Pascal Larkins and the said Eliza Bird his Wife lived and cohabited together as Husband and Wife from the Time of the Solemnization of the said Marriage until the Time therein-after mentioned, and there is Issue of the said Marriage One Child, a Son, Two other Children having died : That the said Eliza Bird Larkins, on or about the Twenty-second Day of September One thousand eight hundred and thirty-eight, left the House of the said John Pascal Larkins at Bombay in the East Indies, while he was temporarily absent therefrom, in company with Frederick Christian Lewis, of Bombay, a Portrait Painter, a British Subject, and in the first instance accompanied the said Frederick Christian Lewis on board the Ship " Fortfield " to Bushire, and during such Time entered into and carried on an unlawful and adulterous Intercourse and criminal Conversation with the said Frederick Christian Lewis : That since the said Twenty-second Day of September One thousand eight hundred and thirty-eight the said John Pascal Larkins hath not lived or cohabited with or had any Access to the said Eliza Bird Larkins : That on the First Day of February One thousand eight hundred and thirty-nine, in the Vacation before February Term, the said John Pascal Larkins brought his Action of Trespass upon the Plea Side of the Supreme Court of Judicature at Bombay aforesaid against the said Frederick Christian Lewis, to recover Damages for such adulterous Intercourse and criminal Conversation with the said Eliza Bird Larkins as aforesaid, to which Action the said Frederick Christian Lewis appeared and pleaded the General Issue : That the said Action was tried on the Fifteenth Day of June One thousand eight hundred and thirty-nine, and on the Eighteenth Day of June in the same Year a Verdict was found for the said John Pascal Larkins, and the Sum of Two thousand Rupees was adjudged to him for Damages, besides Costs, and final Judgment was signed in the said Action on the Thirty-first Day of July in the same Year One thousand eight hundred and thirty-nine : That the said John Pascal Larkins instituted a Suit upon the Ecclesiastical Side of the said Supreme Court of Judicature at Bombay against the said Eliza Bird Larkins for a Divorce and Separation from

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Bed and Board, and mutual Cohabitation, to which she appeared and answered, and on or about the Fourteenth Day of September in the Year One thousand eight hundred and thirty-nine a Definitive Sentence of Divorce from Bed and Board and mutual Cohabitation was pronounced by the said Supreme Court of Judicature at Bombay, in its Ecclesiastical Capacity, against the said Eliza Bird Larkins, for Adultery committed by her with the said Frederick Christian Lewis; that the said Eliza Bird Larkins hath, by her adulterous Behaviour, dissolved the Bond of Marriage on her Part; and the said John Pascal Larkins stands deprived of the Comforts of Matrimony, and may be liable to have a spurious Issue imposed upon him, to succeed to his Name and Estate, unless the said Marriage be declared void and annulled by the Authority of Parliament: It is expressed and proposed to be enacted, That the Bond of Matrimony between the said John Pascal Larkins and the said Eliza Bird his Wife, being violated and broken by the manifest and open Adultery of the said Eliza Bird, he, and the same is thereby from thenceforth wholly dissolved, annulled, vacated, and made void, to all Intents, Constructions, and Purposes whatsoever; and that it shall and may be lawful to and for the said John Pascal Larkins, at any Time or Times thereafter, to contract Matrimony and to marry, as well in the Lifetime of the said Eliza Bird as if she were actually dead, with any Woman or Women whom he might lawfully marry in case the said Eliza Bird were not living; and that such Matrimony, when duly had and celebrated, shall be a good and lawful Marriage and Marriages, and shall be so adjudged, deemed, and taken in all Courts, and to all Intents, Constructions, and Purposes whatsoever; and that all and every the Child and Children born in such Matrimony shall be deemed, adjudged, and taken to be born in lawful Wedlock, and shall be legitimate, and heritable to and shall inherit the Honors, Manors, Messuages, Lands, Tenements, and Hereditaments, from and by their Fathers, Mothers, and other Ancestors and Relations, in like Manner and Form as any other Child or Children born in lawful Matrimony should, could, or might inherit and be inheritable unto, according to the Laws and Course of Inheritance used in this Realm, or any of Her Majesty's Dominions thereunto belonging, and shall have and enjoy all Honours, Privileges, Pre-eminences, Benefits, Advantages, Claims and Demands, in as full, ample, and beneficial a Manner as any other Child or Children born in lawful Wedlock may have or claim by the Laws or Customs of this Realm or any of Her Majesty's Dominions thereunto belonging.

And it is expressed and proposed to be further enacted, That the said John Pascal Larkins shall be entitled to be Tenant by the Courtesy of the Manors, Messuages, Lands, Tenements, and Hereditaments of such Wife or Wives as he shall thereafter marry; and that such Wife or Wives as he shall so thereafter marry shall, unless barred by Jointure or otherwise, be entitled to Dower, or Thirds at the Common Law, or by Custom or otherwise, of and in such Manors, Messuages, Lands, Tenements, and Hereditaments whereof the said John Pascal Larkins shall be seised, of such Estate whereof she or they shall be dowable, as any other Husband or Wife respectively may or might claim, have, or enjoy; and that the Child or Children born in such Marriage or Marriages shall and may derive and make Title, by Descent, Remainder, Limitation, or otherwise, to and from any of his, her, or their Ancestors or collateral Relations, as any other Child or

Children born in lawful Wedlock may do, any Law, Statute, Restraint, Prohibition, Ordinance, Canon, Constitution, Prescription, Usage, or Custom, had, made, constituted, or used, to the contrary notwithstanding.

And it is expressed and proposed to be further enacted, That the said Eliza Bird shall be, and she is thereby barred and excluded of and from all Dower, Free Bench, and Thirds at the Common Law, by Custom or otherwise, and all other Rights, Titles, Inheritances, Claims, and Demnads, of, in, to, or out of all, every, and any of the Manors, Messuages, Lands, Tenements, and Hereditaments whereof or wherein the said John Pascal Larkins, previous to and at the Time of the said Marriage with the said Eliza Bird was, now is, or since his Marriage hath been, or at any Time hereafter shall or may be seised, or for any Estate of Inheritance, and all Claims and Demands in, to, upon, or out of the Personal Estate and Effects which the said John Pascal Larkins now is or at any Time thereafter shall be possessed of or entitled unto.

And it is expressed and proposed to be further enacted, That the said John Pascal Larkins, and all Persons claiming or to claim by, from, or under him, is and are, and shall for ever be, barred and excluded of and from all Rights, Claims, Titles, and Interests of, in, to, or out of any Manors, Messuages, Lands, Tenements, and Hereditaments, and other Estates, Real, Personal, and Mixed, and all Goods, Chattels, Personal Estate and Effects whatsoever, over which the said Eliza Bird shall or may at any Time or Times thereafter acquire or become seised or possessed of or entitled to, by Descent, Gift, Devise, Purchase, or otherwise howsoever, during the Estate and Interest of the said Eliza Bird, her Heirs, Executors, Administrators, and Assigns herein respectively ; and that the said Eliza Bird, her Heirs, Executors, and Administrators, may hold and enjoy the same and every of them, for all her and their Estate and Interest therein, for her and their own proper Use, Benefit, and Advantage, exclusive of the said John Pascal Larkins, his Heirs, Executors, and Administrators, and all and every other Person and Persons whomsoever claiming or to claim by, from, or under him.

And it is expressed and proposed to be further enacted, That it shall not be lawful for the said Eliza Bird Larkins at any Time thereafter to contract Matrimony or to marry with the said Frederick Christian Lewis.

And whereas in the Petition of the said John Pascal Larkins to the House of Lords, for Leave to bring in the said Bill, it is stated that the Witnesses necessary to substantiate the Allegations of the said Bill are resident in the Presidency of Bombay :

And whereas the House of Lords have, on the Fifth Day of this present Month of June, made the following Orders ; (that is to say,)

That the Examinations of the Witnesses necessary to substantiate the Allegations of the said Bill shall be taken in India, by virtue and in pursuance of the said herein-before recited Acts of Parliament, or either of them ; and that the Lord Chancellor do issue his Warrant to the Judges of the Supreme Court of Judicature of the Presidency of Bombay accordingly :

That the said Eliza Bird Larkins, the Wife of the said John Pascal Larkins, shall have a Copy of the said Bill ; and that Notice be given her of the Time to be appointed by the Judges of the Supreme Court of Judicature at Bombay, in pursuance of the said recited Acts or



either of them, for the Examination of Witnesses touching the Allegations of the said Bill; and that she be at liberty to be heard, and to have Witnesses examined, and Evidence produced, of such Matters and Things as she may have to offer against the said Bill at the same Time:

That if the said Eliza Bird Larkins shall have ceased to reside within the said Presidency of Bombay before such Notice and Copy of the said Bill as are ordered as aforesaid to be given can be served upon her, or if it shall appear to the Satisfaction of the said Judges that diligent Inquiry has been made after the said Eliza Bird Larkins, and that she cannot be found, or there is in their Judgment Reason to apprehend that she secretes herself to evade the personal Service of the same, then the Delivery of this present Order and such Notice as aforesaid, and of a Copy of the said Bill, to the Proctor or Agent of the said Eliza Bird Larkins and at the last usual Place of Abode of the said Eliza Bird Larkins, within the said Presidency, shall be deemed as effectual Notice to the said Eliza Bird Larkins of the said Bill, and of the Time of the Examination aforesaid, as if she had been personally served with the said Notice and Bill; and that the Judges of the said Supreme Court of Judicature at Bombay, at the Time to be appointed by them for the Examination of Witnesses pursuant to the said recited Acts or either of them, shall examine upon Oath such Witnesses as shall be produced before them, or as they shall think proper and necessary to be produced, touching the Residence of the said Eliza Bird Larkins, and the Endeavours which shall have been made to serve her with such Notice and Bill as aforesaid:

That at the Time which shall be appointed by the Judges of the said Supreme Court of Judicature at Bombay for the Examination of Witnesses as aforesaid, the said John Pascal Larkins shall attend the said Court in order to his being examined in the said Court, if the Judges thereof shall think fit; and they shall accordingly, if they shall think proper, examine him upon Oath whether there has or has not been any Collusion, directly or indirectly, on his Part, relative to any Act of Adultery that may have been committed by the said Eliza Bird Larkins his Wife, or whether there be any Collusion, directly or indirectly, between him and his said Wife, or any other Person or Persons, touching the said Bill of Divorce, or touching the Proceedings or Sentence of Divorce had on the Ecclesiastical Side of the said Supreme Court of Judicature at Bombay at his Suit, or touching the Action at Law on the Plea Side of the said Court, brought by the said John Pascal Larkins against Frederick Christian Lewis for criminal Conversation with the said Eliza Bird Larkins; and also whether at the Time of such Adultery the said Eliza Bird Larkins was, by Deed or otherwise, with the Consent of the said John Pascal Larkins, living separate and apart from him, and released by him, as far as in him lies, from her conjugal Duty, or whether she was at the Time of such Adultery cohabiting with him, and under the Protection and Authority of him as her Husband:

That the Judges of the said Supreme Court shall, at the Time to be appointed by them in pursuance of the said recited Acts of Parliament or either of them, in addition to the Examinations directed to be taken by the said Acts or either of them, examine upon Oath all such Witnesses as shall be produced before them, and such other Witnesses as shall appear to them fit and necessary to be produced, whether the general Conduct and Behaviour of the said John Pascal Larkins towards the said Eliza Bird Larkins has or has not been affectionate and proper;

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proper ; and also to examine upon Oath all such Witnesses as shall be produced before them, and such other Witnesses as shall appear to them proper and necessary to be produced, in support of, or in answer to, or otherwise touching or concerning any Acts of Adultery which may be charged to have been committed by the said John Pascal Larkins, or other Recrimination (if any) which may be made by or on the Behalf of the said Eliza Bird Larkins, and in support of, or in answer to, or otherwise touching or concerning any other Matters and Things whatsoever which may be alleged by or on the Behalf of the said Eliza Bird Larkins against the passing of the said Bill :

Now therefore, in pursuance of the said Acts, and in obedience to the said Order of the House of Lords for that Purpose, I do, by this Warrant under my Hand and Seal, authorize and require you to examine upon Oath all such Witnesses as shall be produced before you touching the Allegations of the said Bill, and touching the Notices and other Matters which are specified in the aforesaid Orders of the House of Lords, and in this my Warrant, and to make such other Examinations of the Witnesses who shall be produced before you, or whom, according to the said Acts or either of them, you shall or may require to be produced before you, as fit and necessary for the due Investigation of the Allegations of the said Bill and Notices, and other Matters aforesaid ; hereby also authorizing and requiring you to allow such Attendances by Counsel, and such Cross-examination, as shall be deemed by you proper for the Purpose of such Investigation ; and for such Purpose, if it shall seem to you necessary, to name some proper Person or Persons to attend as Counsel and Agent in opposition to the said Bill, and to procure any Evidence which may be necessary for the Purpose of such Opposition, to the end that a full and fair Disclosure may be made of all the Facts and the Circumstances of the Case : And I issue this my Warrant to you accordingly, and hereby require you, in all respects, to conform yourselves to the Directions of the said Acts of Parliament. Dated at Westminster, the Twenty-third Day of June One thousand eight hundred and forty.

(L.s.)

(Signed)

COTTENHAM, C.

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In the Matter of the Divorce Bill of John Pascal Larkins.

Read at the Examination of the Witnesses in the above Matter. Dated this 3d Day of October 1840.

(Signed)

SPENCER COMPTON,  
Registrar.

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### Exhibit B.

In the Supreme Court of Judicature at Bombay, Wednesday the 16th Day of September 1840.

In the Matter of the Divorce Bill of John Pascal Larkins, Attorney at Law, now depending in the House of Lords of the United Kingdom of Great Britain and Ireland.

Whereas a Bill hath been brought into Parliament, and is now depending in the House of Lords, intituled " An Act to dissolve the " Marriage of John Pascal Larkins, Attorney at Law, with Eliza Bird

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" his

“ his now Wife, and to enable him to marry again; and for other  
 “ Purposes therein mentioned:” And whereas, under and by virtue of  
 an Act passed in the First Year of the Reign of His late Majesty King  
 George the Fourth, intituled “ An Act to enable the Examination of  
 “ Witnesses to be taken in India in support of Bills of Divorce on  
 “ account of Adultery committed in India,” a Warrant hath been  
 issued to the Judges of the Supreme Court of Judicature at Bombay,  
 under the Hand and Seal of the Right Honourable the Lord High  
 Chancellor of Great Britain, as Speaker of the House of Lords, bearing  
 Date at Westminster the Twenty-third Day of June One thousand  
 eight hundred and forty, for the Examination of Witnesses touching  
 the Allegations of such Bill, and other Matters: And whereas we  
 have received the said Warrant, which is now filed of Record in this  
 Court :

We do hereby appoint a special Court to be holden on Saturday the  
 Third Day of October 1840, for the Purposes in the said Warrant and  
 Act specified. And it is ordered, that the annexed Notice be forthwith  
 published in the Bombay Government Gazette, and in each of the  
 Bombay Newspapers, and posted at the Door of the Court House, and  
 such other public Places as are usual; and that the Parties and their  
 Witnesses be duly summoned to appear on the Day last aforesaid.

J. W. AWDRY.  
 H. ROPER.

(A true Copy.)—Spencer Compton,  
 Eccl. Reg<sup>r</sup>.

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In the Matter of the Divorce Bill of John Pascal Larkins.  
 This Exhibit was produced by the Witness Acton Smee Ayrtou. Dated this  
 3d October 1840.

SPENCER COMPTON,  
 Registrar.

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### Exhibit C.

In the Matter of the Divorce Bill of John Pascal Larkins.

This Exhibit was produced by the Witness Acton Smee Ayrtou. Dated  
 this 3d October 1840.

SPENCER COMPTON, Registrar.

An Act to dissolve the Marriage of John Pascal Larkins, Attorney  
 at Law, with Eliza Bird his now Wife, and to enable him to  
 marry again; and for other Purposes therein mentioned.

Humbly showeth and complaineth unto Your most Excellent Ma-  
 jesty, Your true and faithful Subject, John Pascal Larkins of Bombay  
 in the East Indies, Attorney at Law and Solicitor,

That on the Twenty-first Day of October One thousand eight hun-  
 dred and twenty-nine Your said Subject was lawfully married at Islington  
 in the County of Middlesex, according to the Rites and Ceremonies of  
 the Church of England, to Eliza Bird Larkins, then Eliza Bird Andrews,  
 Spinster :

That Your said Subject and the said Eliza Bird his Wife lived and  
 cohabited together as Husband and Wife from the Time of the Solemn-  
 ization of the said Marriage until the Time herein-after mentioned, and  
 there

there is Issue of the said Marriage One Child, a Son, and Two other Children having died :

That the said Eliza Bird Larkins, on or about the Twenty-second Day of September One thousand eight hundred and thirty-eight, left the House of Your said Subject at Bombay in the East Indies while he was temporarily absent therefrom, in company with Frederick Christian Lewis of Bombay, a Portrait Painter, a British Subject, and in the first instance accompanied the said Frederick Christian Lewis on board the Ship Fortfield to Bushire, and during such Time entered into and carried on an unlawful and adulterous Intercourse and criminal Conversation with the said Frederick Christian Lewis :

That since the said Twenty-second Day of September One thousand eight hundred and thirty-eight Your said Subject hath not lived or cohabited with or had any Access to the said Eliza Bird Larkins :

That on the First Day of February One thousand eight hundred and thirty-nine, in the Vacation before February Term, Your said Subject brought his Action of Trespass upon the Plea Side of the Supreme Court of Judicature at Bombay aforesaid against the said Frederick Christian Lewis, to recover Damages for such adulterous Intercourse and criminal Conversation with the said Eliza Bird Larkins as aforesaid, to which Action the said Frederick Christian Lewis appeared and pleaded the General Issue :

That the said Action was tried on the Fifteenth Day of June One thousand eight hundred and thirty-nine, and on the Eighteenth Day of June in the same Year a Verdict was found for Your said Subject, and the Sum of Two thousand Rupees was adjudged to him for Damages, besides Costs, and final Judgment was signed in the said Action on the Thirty-first Day of July in the said Year One thousand eight hundred and thirty-nine :

That Your said Subject instituted a Suit upon the Ecclesiastical Side of the said Supreme Court of Judicature at Bombay against the said Eliza Bird Larkins, for a Divorce and Separation from Bed and Board and mutual Cohabitation, to which she appeared and answered ; and on or about the Fourteenth Day of September in the Year One thousand eight hundred and thirty-nine a Definitive Sentence of Divorce from Bed and Board and mutual Cohabitation was pronounced by the said Supreme Court of Judicature at Bombay in its Ecclesiastical Capacity against the said Eliza Bird Larkins for Adultery committed by her with the said Frederick Christian Lewis :

That the said Eliza Bird Larkins hath by her adulterous Behaviour dissolved the Bond of Marriage on her Part ; and Your said Subject stands deprived of the Comforts of Matrimony, and may be liable to have a spurious Issue imposed upon him to succeed to his Name and Estate, unless the Marriage be declared void and annulled by the Authority of Parliament :

May it therefore please Your most Excellent Majesty, out of Your princely Goodness and Compassion to Your said Subject's Misfortune and Calamity,

That it may be enacted ; and be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That the said Bond of Matrimony between the said John Pascal Larkins and the said Eliza Bird his Wife, being violated and broken by the manifest and open Adultery of the said Eliza Bird, be and it is hereby from henceforth

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wholly

wholly dissolved, annulled, vacated, and made void to all Intents, Constructions, and Purposes whatsoever; and that it shall and may be lawful to and for the said John Pascal Larkins at any Time or Times hereafter to contract Matrimony and to marry, as well in the Lifetime of the said Eliza Bird as if she were actually dead, with any Woman or Women whom he might lawfully marry in case the said Eliza Bird were not living; and that such Matrimony, when duly had and celebrated, shall be a good, just, and lawful Marriage and Marriages, and shall be so adjudged, deemed, and taken in all Courts, and to all Intents, Constructions, and Purposes whatsoever; and that all and every the Child and Children born in such Matrimony shall be deemed, adjudged, and taken to be born in lawful Wedlock, and shall be legitimate, and heritable to and shall inherit the Honors, Manors, Messuages, Lands, Tenements, and Hereditaments, from and by their Mothers, Fathers, and other Ancestors and Relations, in like Manner and Form as any other Child or Children born in lawful Matrimony should, could, or might inherit and be inheritable unto according to the Laws and Course of Inheritance used in this Realm, or any of Her Majesty's Dominions thereunto belonging, and shall have and enjoy all Honours, Privileges, Pre-eminences, Benefits, Advantages, Claims and Demands, in as full, ample, and beneficial a Manner as any other Child or Children born in lawful Wedlock may have or claim by the Laws or Customs of this Realm, or any of Her Majesty's Dominions thereunto belonging.

And be it further enacted, That the said John Pascal Larkins shall be entitled to be Tenant by the Courtesy of the Manors, Messuages, Lands, Tenements, and Hereditaments of such Wife or Wives as he shall hereafter marry; and that such Wife or Wives as he shall so hereafter marry shall, unless barred by Jointure or otherwise, be entitled to Dower or Thirds at the Common Law, or by Custom or otherwise, of and in such Manors, Messuages, Lands, Tenements, and Hereditaments whereof the said John Pascal Larkins shall be seised, of such Estate whereof she or they shall be dowable, as any other Husband or Wife respectively may or might claim, have, or enjoy; and that the Child or Children born in such Marriage or Marriages shall and may derive and make Title, by Descent, Remainder, Limitation, or otherwise, to and from any of his, her, or their Ancestors or collateral Relations, as any other Child or Children born in lawful Wedlock may do, any Law, Statute, Restraint, Prohibition, Ordinance, Canon, Constitution, Prescription, Usage, or Custom, had, made, constituted, or used, to the contrary notwithstanding.

And be it further enacted, That the said Eliza Bird shall be and is hereby barred and excluded of and from all Dower, Free Bench, and Thirds at the Common Law, by Custom or otherwise, and all other Rights, Titles, Inheritances, Claim and Demands, of, in, to, or out of all, every, and any of the Manors, Messuages, Lands, Tenements, or Hereditaments whereof or wherein the said John Pascal Larkins, previous to and at the Time of the said Marriage with the said Eliza Bird, was, now is, or since his Marriage hath been, or at any Time hereafter shall or may be, seised of or for any Estate of Inheritance, and all Claims and Demands in, to, upon, or out of the Personal Estate and Effects which the said John Pascal Larkins now is or at any Time hereafter shall be possessed of or entitled unto.

And be it further enacted, That the said John Pascal Larkins, and all Persons claiming or to claim by, from, or under him, is and are and shall for ever be barred and excluded of and from all Rights, Claims, Titles,

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Titles, and Interests of, in, to, or out of any Manors, Messuages, Lands, Tenements, and Hereditaments, and other Estates, Real, Personal, and Mixed, and all Goods, Chattels, Personal Estate, and Effects whatsoever, over which the said Eliza Bird shall or may at any Time or Times hereafter acquire or become seised or possessed of or entitled to by Descent, Gift, Devise, Purchase, or otherwise howsoever, during the Estate and Interest of the said Eliza Bird, her Heirs, Executors, Administrators, and Assigns therein respectively; and that the said Eliza Bird, her Heirs, Executors, and Administrators, may hold and enjoy the same and every of them, for all her and their Estate and Interest therein, for her and their own proper Use, Benefit, and Advantage, exclusive of the said John Pascal Larkins, his Heirs, Executors, and Administrators, and all and every other Person and Persons whomsoever claiming or to claim by, from, or under him.

And be it further enacted, That it shall not be lawful for the said Eliza Bird Larkins at any Time hereafter to contract Matrimony or to marry with the said Frederick Christian Lewis.

BENJAMIN CURREY,  
Dep. Cler. Parliamentor.

### Exhibit D.

*Die Veneris, 5<sup>o</sup> Junii 1840.*

Ordered, by the Lords Spiritual and Temporal in Parliament assembled, That the Examinations of the Witness necessary to substantiate the Allegations of a Bill depending in this House, intituled "An Act to dissolve the Marriage of John Pascal Larkins, Attorney at Law, with Eliza Bird his now Wife, and to enable him to marry again; and for other Purposes therein mentioned," shall be taken in India by virtue and in pursuance of an Act of Parliament made and passed in the First Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to enable the Examination of Witnesses to be taken in India in support of Bills of Divorce on account of Adultery committed in India;" and of an Act of Parliament passed in the Fourth Year of the Reign of His said Majesty King George the Fourth, intituled "An Act for defraying the Charge of Retiring Pay, Pensions, and the Expenses of that Nature of His Majesty's Forces serving in India; for establishing the Pensions of the Bishop, Archdeacon, and Judges; for regulating Ordinations; and for establishing a Court of Judicature at Bombay;" and that the Lord Chancellor do issue his Warrant to the Judges of the Supreme Court of Judicature, the Presidency of Madras, accordingly.

BENJAMIN CURREY,  
Dep. Cler. Parliamentor.

—Indorsement.—

Supreme Court.

In the Matter of the Divorce Bill of John Pascal Larkins, Attorney at Law, now depending in the House of Lords of the United Kingdom of Great Britain and Ireland.

This Exhibit was produced by the Witness Acton Smee Ayrton. Dated this 3d October 1840.

SPENCER COMPTON,  
Registrar.

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( 14 )

*Die Veneris, 5° Junii 1840.*

Ordered, by the Lords Spiritual and Temporal in Parliament assembled, That Eliza Bird Larkins, the Wife of the said John Pascal Larkins, shall have a Copy of the Bill; and that Notice be given her of the Time to be appointed by the Judges of the Supreme Court of Judicature at Bombay, in pursuance of the said recited Acts or either of them, for the Examination of Witnesses touching the Allegations of the Bill; and that she be at liberty to be heard, and to have Witnesses examined and Evidence produced of such Matters and Things as she may have to offer against the said Bill, at the same Time

BENJAMIN CURREY,  
Dep. Cler. Parliamentor.

*Die Veneris, 5° Junii 1840.*

Ordered, by the Lords Spiritual and Temporal in Parliament assembled, That if the said Eliza Bird Larkins shall have ceased to reside within the said Presidency of Bombay before such Notice and Copy of the Bill as are ordered as aforesaid to be given can be served upon her, or if it shall appear to the Satisfaction of the said Judges that diligent Inquiry has been made after the said Eliza Bird Larkins, and that she cannot be found, or there is, in their Judgment, Reason to apprehend that she secretes herself to evade the personal Service of the same, then the Delivery of this present Order, and such Notice as aforesaid, and a Copy of the said Bill, to the Proctors or Agent of the said Eliza Bird Larkins, and at the last usual Place of Abode of the said Eliza Bird Larkins within the said Presidency, shall be deemed as effectual Notice to the said Eliza Bird Larkins of the said Bill, and of the Time of the Examination aforesaid, as if she had been personally served with the said Notice and Bill; and that the Judges of the said Supreme Court of Judicature at Bombay, at the Time to be appointed by them for the Examination of Witnesses pursuant to the said recited Acts or either of them, shall examine upon Oath such Witnesses as shall be produced before them, or as they shall think proper and necessary to be produced, touching the Residence of the said Eliza Bird Larkins, and the Endeavours which shall have been made to serve her with such Notice and Bill as aforesaid.

(Signed) BENJAMIN CURREY,  
Dep. Cler. Parliamentor.

*Die Veneris, 5° Junii 1840.*

Ordered, by the Lords Spiritual and Temporal in Parliament assembled, That at the Time which shall be appointed by the Judges of the said Supreme Court of Judicature at Bombay for the Examination of Witnesses as aforesaid, the said John Pascal Larkins shall attend the said Court, in order to his being examined in the said Court, if the Judges thereof shall think fit; and they shall accordingly, if they shall think proper, examine him upon Oath whether there has or has not been any Collusion, directly or indirectly, on his Part, relative to any Act of Adultery that may have been committed by the said Eliza Bird Larkins his Wife; or whether there be any Collusion, directly or indirectly, between him and his said Wife, or any other Person or

( 15 )

Persons, touching the said Bill of Divorce, or touching the Proceedings or Sentence of Divorce had on the Ecclesiastical Side of the Supreme Court of Judicature at Bombay at his Suit, or touching the Action at Law on the Plea Side of the said Court brought by the said John Pascal Larkins against Frederick Christian Lewis for criminal Conversation with the said Eliza Bird Larkins; and also whether, at the Time of such Adultery, the said Eliza Bird Larkins was, by Deed, or otherwise with the Consent of the said John Pascal Larkins, living separate and apart from him, and released by him, as far as in him lies, from her conjugal Duty, or whether she was at the Time of such Adultery cohabiting with him, and under the Protection and Authority of him as her Husband.

(Signed) BENJAMIN CURREY,  
Dep. Cler. Parliamentor.

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*Die Veneris, 5<sup>o</sup> Junii 1840.*

Ordered, by the Lords Spiritual and Temporal in Parliament assembled, That the Judges of the said Supreme Court shall, at the Time to be appointed by them in pursuance of the said recited Acts of Parliament or either of them, in addition to the Examinations directed to be taken by the said Acts or either of them, examine upon Oath all such Witnesses as shall be produced before them, and such other Witnesses as shall appear to them fit and necessary to be produced, whether the general Conduct and Behaviour of the said John Pascal Larkins towards the said Eliza Bird Larkins has or has not been affectionate and proper; and also to examine upon Oath all such Witnesses as shall be produced before them, and such other Witnesses as shall appear to them proper and necessary to be produced, in support of or in answer to or otherwise touching or concerning any Acts of Adultery which may be charged to have been committed by the said John Pascal Larkins, or other Recriminations, if any, which may be made by or on Behalf of the said Eliza Bird Larkins, and in support of or in answer to or otherwise touching or concerning any other Matters and Things whatsoever which may be alleged by or on behalf of the said Eliza Bird Larkins against the passing of the said Bill.

(Signed) BENJAMIN CURREY,  
Dep. Cler. Parliamentor.

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**Exhibit E.**

In the Court for the Relief of Insolvent Debtors, Bombay.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth.

In the Matter of the Petition of Frederick Christian Lewis, an Insolvent.

Upon Motion of Mr. Campbell, being of Counsel for the said Insolvent, that the said Insolvent may be at liberty to file his Petition praying for the Relief contained in the Insolvent Debtors Act,  
(8.) together



( 16 )

together with an Assignment of his Estate and Effects to the Common Assignee, and upon reading the Certificate of the Prothonotary, of this Date, it is ordered, That the said Motion be and it is hereby granted. Witness Sir John Wither Awdry, Knight, Chief Justice at Bombay aforesaid, this Fifth Day of August One thousand eight hundred and thirty-nine.

(Seal.) (Signed) J. P. LARKINS,  
Chief Clerk.

(Signed) J. P. LARKINS, Sealer,  
the 5th Day of August 1839.

I hereby certify that the above is a true Copy  
of the Original as examined by me.

J. P. LARKINS,  
Clerk to the Insolvent Court.

— *Indorsement.* —

In the Matter of the Divorce Bill of John Pascal Larkins.

This Exhibit was produced by the Witness, Acton Smees Ayrton. Dated this 3d October 1840.

SPENCER COMPTON,  
Registrar.

Exhibit F.

In the Court for the Relief of the Insolvent Debtors, Bombay.

(373.)

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth.

In the Matter of the Petition of Frederick Christian Lewis, an Insolvent.

Upon Motion of Mr. Campbell, being of Counsel for the said Insolvent, and upon reading the Certificate of the Chief Clerk of this Honourable Court, dated the Sixteenth Day of August instant, and the Affidavit of Edu Gee Bomanjee, a Clerk in the Service of Acton Smees Ayrton, Gentleman, Attorney for the said Insolvent, sworn to on this Day, it is ordered, That the First Monday in the Month of September next be and it is hereby appointed for hearing the Matters of the said Insolvent's Petition; and that the Marshal of the Bombay Gaol do, upon the said First Monday in September next, bring up the Body of the said Insolvent to the Court House, to be then and there examined touching the Matters of his said Petition: And it is further ordered, That the said Insolvent's Schedule be amended, by stating that Messieurs Remington and Company hold the Bill of Exchange, in the Schedule mentioned to be held by them, as Agents for Captain Hennell, also therein mentioned. Witness Sir John Wither Awdry, Knight, Chief Justice at Bombay aforesaid, this Nineteenth Day of August One thousand eight hundred and thirty-nine.

(Seal.) (Signed) J. P. LARKINS,  
Chief Clerk.

(Signed) J. P. LARKINS, Sealer,  
the 22d Day of August 1839.

I hereby certify that the above is a true Copy  
of the Original as examined by me.

J. P. LARKINS,  
Clerk to the Insolvent Court.

( 17. )

## —Indorsement.—

In the Matter of the Divorce Bill of John Pascal Larkins.  
This Exhibit was produced by the Witness, Acton Smea Ayrton. Dated this  
3d October 1840.

SPENCER COMPTON,  
Registrar.

## Exhibit G.

In the Court for the Relief of Insolvent Debtors, Bombay.

(373.)

VICTORIA, by the Grace of God of the United Kingdom of Great  
Britain and Ireland Queen, Defender of the Faith, and so  
forth.

In the Matter of the Petition of Frederick Christian Lewis an  
Insolvent.

The Matters of this Petition having been appointed this Day for  
hearing, Mr. Campbell, being of Counsel for the said Insolvent, moves,  
that the Matter of the said Insolvent's Petition may stand over until  
the next Court Day ; it is Ordered, That the said Motion be, and it is  
hereby granted ; and it is further Ordered, That the Marshal of the  
Bombay Gaol do upon the said next Court Day bring up the Body  
of the said Insolvent to the Court House, to be then and there  
examined touching the Matters of his said Petition. Witness Sir John  
Wither Awdry, Knight, Chief Justice at Bombay aforesaid, this Second  
Day of September One thousand eight hundred and thirty-nine.

(Signed) J. P. LARKINS,  
Chief Clerk.

(Seal.)

(Signed) J. P. LARKINS, Sealer,  
the 9th Day of September 1839.

I hereby certify, That the above is a true  
Copy of the Original, as examined by me,  
J. P. LARKINS,  
Clerk to the Insolvent Court.

## —Indorsement.—

In the Matter of the Divorce Bill of John Pascal Larkins.  
This Exhibit was produced by the Witness, Acton Smea Ayrton. Dated this  
3d October 1840.

SPENCER COMPTON,  
Registrar.

## Exhibit H.

In the Court for the Relief of Insolvent Debtors, Bombay.

(373.)

VICTORIA, by the Grace of God of the United Kingdom of Great  
Britain and Ireland Queen, Defender of the Faith, and so  
forth.

In the Matter of the Petition of Frederick Christian Lewis an  
Insolvent.

The Matters of this Petition having been appointed this Day for a  
further Hearing (by Adjournment from Monday the Second Day of  
September instant), Mr. Campbell being of Counsel for the said

(8.) E Insolvent,

Insolvent, moves for the further Adjournment of the Matters of the said Insolvent's Petition until the First Monday in the Month of October next ; and, after reading the Order of the said Second Day of September instant, it is Ordered, That the said Motion be, and it is hereby granted. Witness Sir John Wither Awdry, Knight, Chief Justice at Bombay aforesaid, this Sixteenth Day of September One thousand eight hundred and thirty-nine.

(Signed) J. P. LARKINS,  
Chief Clerk.  
(Seal.)  
(Signed) J. P. LARKINS, Sealer,  
the 21st Day of September 1839.

I hereby certify that the above is a true  
Copy of the Original, as examined by me.  
J. P. LARKINS,  
Clerk to the Insolvent Court.

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— *Indorsement.* —

In the Matter of the Divorce Bill of John Pascal Larkins.

This Exhibit was produced by the Witness, Acton Smee Ayrton. Dated this 3d October 1840.

SPENCER COMPTON,  
Registrar.

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Exhibit I.

In the Court for the Relief of Insolvent Debtors, Bombay.  
(373.)

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth.

In the Matter of the Petition of Frederick Christian Lewis an Insolvent.

The Matters of this Petition having been called on for a further Hearing, Mr. Campbell, being of Counsel for the said Insolvent, applies that he may be sworn to the Truth of his Schedule, and be adjudged entitled to the Benefit of the Act of Parliament made and passed for the Relief of Insolvent Debtors in the East Indies ; and, on reading an Order made in this Matter on the Seventh Day of October instant, whereby the Hearing of the Matters of the said Insolvent's Petition were adjourned until this Day ; whereupon, and on hearing Mr. Advocate General on behalf of the detaining Creditor, and after swearing the said Insolvent to the Truth of his Schedule, this Court doth order and adjudge, That the said Insolvent shall be, and he is hereby discharged from Custody, and declared entitled to the Benefit of the Act for the Relief of Insolvent Debtors in the East Indies, the said Insolvent having been in Custody at the Suit of the said detaining Creditor (as to whose Debt his Discharge was adjudicated) for the Period of Seventy-seven Days from the Fifth Day of August last, being the Day on which the said Insolvent filed his Petition in this Honourable Court, praying for the Benefit of the said Act, and which has this Day expired ; and it is further Ordered, That the Costs of the said detaining Creditor in the above Matter be paid out of the first Assets that may come

( 19 )

come to the Hands of the Common Assignee belonging to the said Insolvent's Estate. Witness Sir John Wither Awdry, Knight, Chief Justice at Bombay aforesaid, this Twenty-first Day of October One thousand eight hundred and thirty-nine.

(Seal.) (Signed) J. P. LARKINS,  
Chief Clerk.  
(Signed) J. P. LARKINS, Sealer,  
the 25th Day of October 1839.

I hereby certify, That the above is a true Copy of the Original, as examined by me.

J. P. LARKINS,  
Clerk to the Insolvent Court.

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—Indorsement.—

In the Matter of the Divorce Bill of John Pascal Larkins.

This Exhibit was produced by the Witness, Acton Smee Ayrton. Dated this 3d October 1840.

SPENCER COMPTON,  
Registrar.

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Exhibit K.

In the Supreme Court of Judicature at Bombay.

Wednesday the 16th Day of September 1840.

In the Matter of the Divorce Bill of John Pascal Larkins, Attorney at Law, now depending in the House of Lords of the United Kingdom of Great Britain and Ireland.

Whereas a Bill hath been brought into Parliament, and is now depending in the House of Lords, intituled " An Act to dissolve the Marriage of John Pascal Larkins, Attorney at Law, with Eliza Bird his now Wife, and to enable him to marry again; and for other Purposes therein mentioned:" And whereas under and by virtue of an Act passed in the First Year of the Reign of His late Majesty King George the Fourth, intituled " An Act to enable the Examination of Witnesses to be taken in India in support of Bills of Divorce on account of Adultery committed in India," a Warrant hath been issued to the Judges of the Supreme Court of Judicature at Bombay, under the Hand and Seal of the Right Honourable the Lord High Chancellor of Great Britain, as Speaker of the House of Lords, bearing Date at Westminster the Twenty-third Day of June One thousand eight hundred and forty, for the Examination of Witnesses touching the Allegations of such Bill, and other Matters: And whereas we have received the said Warrant, which is now filed of Record in this Court, we do hereby appoint a special Court to be holden on Saturday the Third Day of October One thousand eight hundred and forty, for the Purposes in the said Warrant and Act specified; and it is Ordered, That the annexed Notice be forthwith published in the Bombay Government Gazette, and in each of the Bombay Newspapers, and posted at the Door of the Court

(8.) House,

House, and such other public Places as are usual; and that the Parties and their Witnesses be duly summoned to appear on the Day last aforesaid.

J. W. AWDRY.  
H. ROPER.

A true Copy.  
SPENCER COMPTON,  
Eccl. Regr.

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—Indorsement.—

In the Matter of the Divorce Bill of John Pascal Larkins.

This Exhibit was produced by the Witness, Ballajee Trimback. Dated this 3d October 1840.

SPENCER COMPTON,  
Registrar.

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Exhibit L.

In the Supreme Court of Judicature at Bombay.

Wednesday the 16th Day of September 1840.

In the Matter of the Divorce Bill of John Pascal Larkins, Attorney at Law, now depending in the House of Lords of the United Kingdom of Great Britain and Ireland.

Whereas a Bill hath been brought into Parliament, and is now depending in the House of Lords, intituled "An Act to dissolve the Marriage of John Pascal Larkins, Attorney at Law, with Eliza Bird his now Wife, and to enable him to marry again; and for other Purposes therein mentioned:" And whereas, under and by virtue of an Act passed in the First Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to enable the Examination of Witnesses to be taken in India in support of Bills of Divorce on account of Adultery committed in India," a Warrant hath been issued to the Judges of the Supreme Court of Judicature at Bombay, under the Hand and Seal of the Right Honourable the Lord High Chancellor of Great Britain, as Speaker of the House of Lords, bearing Date at Westminster the Twenty-third Day of June One thousand eight hundred and forty, for the Examination of Witnesses touching the Allegations of such Bill, and other Matters: And whereas we have received the said Warrant, which is now filed of Record in this Court, we do hereby appoint a special Court to be holden on Saturday the Third Day of October One thousand eight hundred and forty, for the Purposes in the said Warrant and Act specified; and it is ordered, That the annexed Notice be forthwith published in the Bombay Government Gazette, and in each of the Bombay Newspapers, and posted at the Door of the Court House, and such other public Places as are usual; and that the Parties and their Witnesses be duly summoned to appear on the Day last aforesaid.

J. W. AWDRY.  
H. ROPER.

A true Copy.  
SPENCER COMPTON,  
Ecc' Regr.

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—Indorsement.—

In the Matter of the Divorce Bill of John Pascal Larkins.

This Exhibit was produced by the Witness, Ballajee Trimback. Dated this 3d October 1840.

SPENCER COMPTON,  
Registrar.

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Exhibits M. and N.—*Vide* Exhibits C. and D.

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Exhibit O.

In the Supreme Court of Judicature at Bombay.

Wednesday the 16th Day of September 1840.

In the Matter of the Divorce Bill of John Pascal Larkins, Attorney at Law, now depending in the House of Lords of the United Kingdom of Great Britain and Ireland.

WHEREAS a Bill hath been brought into Parliament, and is now depending in the House of Lords, intituled "An Act to dissolve the Marriage of John Pascal Larkins, Attorney at Law, with Eliza Bird his now Wife, and to enable him to marry again; and for other Purposes therein mentioned:" And whereas under and by virtue of an Act passed in the First Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to enable the Examination of Witnesses to be taken in India in support of Bills of Divorce on account of Adultery committed in India," a Warrant hath been issued to the Judges of the Supreme Court of Judicature at Bombay, under the Hand and Seal of the Right Honourable the Lord High Chancellor of Great Britain, as Speaker of the House of Lords, bearing Date at Westminster the Twenty-third Day of June One thousand eight hundred and forty, for the Examination of Witnesses touching the Allegations of such Bill, and other Matters: And whereas we have received the said Warrant, which is now filed of Record in this Court, we do hereby appoint a special Court to be holden on Saturday the Third Day of October One thousand eight hundred and forty, for the Purposes in the said Warrant and Act specified; and it is ordered, That the annexed Notice be forthwith published in the Bombay Government Gazette, and in each of the Bombay Newspapers, and posted at the Door of the Court House, and such other public Places as are usual; and that the Parties and their Witnesses be duly summoned to appear on the Day last aforesaid.

J. W. AWDRY.  
H. ROPER.

A true Copy.  
SPENCER COMPTON,  
Eccl. Regr.

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—Indorsement.—

In the Matter of the Divorce Bill of John Pascal Larkins.

This Exhibit was produced by the Witness, Nasserwanjee Nowrojee. Dated this 3d October 1840.

SPENCER COMPTON,  
Registrar.

## Exhibit P.

In the Supreme Court of Judicature at Bombay.

Wednesday the 16th Day of September 1840.

In the Matter of the Divorce Bill of John Pascal Larkins, Attorney at Law, now depending in the House of Lords of the United Kingdom of Great Britain and Ireland.

Whereas a Bill hath been brought into Parliament, and is now depending in the House of Lords, intituled "An Act to dissolve the Marriage of John Pascal Larkins, Attorney at Law, with Eliza Bird his now Wife, and to enable him to marry again; and for other Purposes therein mentioned:" And whereas under and by virtue of an Act passed in the First Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to enable the Examination of Witnesses to be taken in India in support of Bills of Divorce on account of Adultery committed in India," a Warrant hath been issued to the Judges of the Supreme Court of Judicature at Bombay, under the Hand and Seal of the Right Honourable the Lord High Chancellor of Great Britain, as Speaker of the House of Lords, bearing Date at Westminster the Twenty-third Day of June One thousand eight hundred and forty, for the Examination of Witnesses touching the Allegations of such Bill, and other Matters: And whereas we have received the said Warrant, which is now filed of Record in this Court, we do hereby appoint a special Court to be holden on Saturday the Third Day of October One thousand eight hundred and forty, for the Purposes in the said Warrant and Act specified; and it is ordered, That the annexed Notice be forthwith published in the Bombay Government Gazette, and in each of the Bombay Newspapers, and posted at the Door of the Court House, and such other public Places as are usual; and that the Parties and their Witnesses be duly summoned to appear on the Day last aforesaid.

J. W. AWDRY.

H. ROPER.

A true Copy.

SPENCER COMPTON,  
Ecc<sup>l</sup> Reg<sup>r</sup>.

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—Indorsement.—

In the Matter of the Divorce Bill of John Pascal Larkins.

This Exhibit was produced by the Witness, Ramchunder Succaram. Dated this 3d October 1840.

SPENCER COMPTON,  
Registrar.

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**Exhibit Q.**

**In the Supreme Court of Judicature at Bombay.**

**Wednesday the 16th Day of September 1840.**

**In the Matter of the Divorce Bill of John Pascal Larkins, Attorney at Law, now depending in the House of Lords of the United Kingdom of Great Britain and Ireland.**

Whereas a Bill hath been brought into Parliament, and is now depending in the House of Lords, intituled "An Act to dissolve the Marriage of John Pascal Larkins, Attorney at Law, with Eliza Bird his now Wife, and to enable him to marry again; and for other Purposes therein mentioned:" And whereas under and by virtue of an Act passed in the First Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to enable the Examination of Witnesses to be taken in India in support of Bills of Divorce on account of Adultery committed in India," a Warrant hath been issued to the Judges of the Supreme Court of Judicature at Bombay, under the Hand and Seal of the Right Honourable the Lord High Chancellor of Great Britain, as Speaker of the House of Lords, bearing Date at Westminster the Twenty-third Day of June One thousand eight hundred and forty, for the Examination of Witnesses touching the Allegations of such Bill, and other Matters: And whereas we have received the said Warrant, which is now filed of Record in this Court, we do hereby appoint a special Court to be holden on Saturday the Third Day of October One thousand eight hundred and forty, for the Purposes in the said Warrant and Act specified; and it is ordered, That the annexed Notice be forthwith published in the Bombay Government Gazette, and in each of the Bombay Newspapers, and posted at the Door of the Court House, and such other public Places as are usual; and that the Parties and their Witnesses be duly summoned to appear on the Day last aforesaid.

**J. W. AWDRY.  
H. ROPER.**

A true Copy.  
**SPENCER COMPTON,**  
Ecc<sup>l</sup> Reg<sup>r</sup>.

*—Indorsement.—*

**In the Matter of the Divorce Bill of John Pascal Larkins.**

This Exhibit was produced by the Witness, Cursetjee Rutnagur. Dated this 3d October 1840.

**SPENCER COMPTON,**  
Registrar.



## Exhibit R.

In the Supreme Court of Judicature at Bombay.

Wednesday the 16th Day of September 1840.

In the Matter of the Divorce Bill of John Pascal Larkins, Attorney at Law, now depending in the House of Lords of the United Kingdom of Great Britain and Ireland.

Whereas a Bill hath been brought into Parliament, and is now depending in the House of Lords, intituled "An Act to dissolve the Marriage of John Pascal Larkins, Attorney at Law, with Eliza Bird his now Wife, and to enable him to marry again; and for other Purposes therein mentioned:" And whereas under and by virtue of an Act passed in the First Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to enable the Examination of Witnesses to be taken in India in support of Bills of Divorce on account of Adultery committed in India," a Warrant hath been issued to the Judges of the Supreme Court of Judicature at Bombay, under the Hand and Seal of the Right Honourable the Lord High Chancellor of Great Britain, as Speaker of the House of Lords, bearing Date at Westminster the Twenty-third Day of June One thousand eight hundred and forty, for the Examination of Witnesses touching the Allegations of such Bill, and other Matters: And whereas we have received the said Warrant, which is now filed of Record in this Court, we do hereby appoint a special Court to be holden on Saturday the Third Day of October One thousand eight hundred and forty, for the Purposes in the said Warrant and Act specified; and it is ordered, That the annexed Notice be forthwith published in the Bombay Government Gazette, and in each of the Bombay Newspapers, and posted at the Door of the Court House, and such other public Places as are usual; and that the Parties and their Witnesses be duly summoned to appear on the Day last aforesaid.

J. H. AWDRY.  
H. ROPER.

A true Copy.  
SPENCER COMPTON,  
Ecc' Regt.

—Indorsement.—

In the Matter of the Divorce Bill of John Pascal Larkins.

This Exhibit was produced by the Witness, Sadanund Sunkerjee. Dated this 3d October 1840.

SPENCER COMPTON,  
Registrar.

Certificate of the Chief Justice, &c.

We, Sir John Wither Awdry, Knight, Chief Justice, and Sir Henry Roper, Knight, One of the Judges, of the Supreme Court of Judicature at Bombay, do hereby certify, That, pursuant to an Act of Parliament passed in the First Year of the Reign of His late Majesty King George the Fourth, intituled "An Act to enable the Examination of Wit-  
9  
nesses

“ nesses to be taken in India in support of Bills of Divorce on account “ of Adultery committed in India,” and in obedience to a Warrant under the Hand and Seal of the Lord High Chancellor of Great Britain, as Speaker of the House of Lords, bearing Date at Westminster the Twenty-third Day of June One thousand eight hundred and forty, directed to us or other the Judges of the same Court, and authorizing and requiring us to examine upon Oath all such Witnesses as should be produced before us touching the Allegations of a certain Bill brought into Parliament, and depending in the House of Lords, intituled “ An Act to dissolve the Marriage of John Pascal Larkins, “ Attorney at Law, with Eliza Bird his now Wife, and to enable him “ to marry again ; and for other Purposes ;” and touching the Notices and other Matters which are specified in the Orders of the House of Lords made on the Fifth Day of the said Month of June in the said Warrant mentioned ; and to make such other Examinations of the Witnesses who should be produced before us, or whom according to the said Act we should or might require to be produced before us, as fit and necessary for the Investigation of the Allegations of the said Bill and Notices and other Matters aforesaid ; and also authorizing and requiring us to allow such Attendances by Counsel and such Cross-examination as should be deemed by us proper for the Purpose of such Investigation, and for such Purposes, if it should seem to us necessary, to name some proper Person or Persons to attend as Counsel and Agent in opposition to the said Bill, and to procure any Evidence which might be necessary for the Purpose of such Opposition, to the end that a full and fair Disclosure might be made of all the Facts and Circumstances of the Case ; we did on the Third Day of October One thousand eight hundred and forty, after due public Notice thereof, and of such intended Examination, hold a Court for the Examination of the Witnesses directed by such Warrant to be examined : And we do further certify, that the following several Skins of Parchment hereunto annexed, and marked respectively Numbers 1, 2, 3, 4, 5, 6, 7, and 8, and identified by the Initials of Spencer Compton, Esquire, herein-after mentioned, contain true and exact Copies of the vivâ voce Examinations, and of the Signatures thereunder written of the following Witnesses ; namely, Ramchunder Succaram, Nasserwanjee Nowrojee, Cursetjee Rutwaghur, Sadanund Sunkerjee, Bal-lajee Trimback, Joseph Gregory, Jewajee Nowrojee, Acton Smee Ayrton, Aga Mahomed Jaffer, James Geddes, the Reverend John Wilson, the Reverend George Candy, Thomas Lancaster, George Smith King, Sebastian Stewart Dickinson, Esquire, Oswald William Ketterer, Charles Hardy Bainbridge, and John Pascal Larkins, which were taken upon the respective Oaths of such Witnesses before us in open Court held as aforesaid ; and we do declare that such Examinations have, in our Judgment, been fairly and properly conducted, and that all such Witnesses have been produced as were fit to be produced for the Purpose of ascertaining the whole Truth, as far as the Attendance of such Witnesses could be reasonably obtained : And we do further certify, that Spencer Compton, Esquire, is the Registrar and sworn Officer of the said Supreme Court. In testimony whereof we have this Thirtieth Day of November One thousand eight hundred and forty hereunto set our Hands, and caused the official Seal of the said Supreme Court of Judicature at Bombay to be affixed.

J. W. AWDRY.

H. ROPER.

(8.)

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I, the

I, the above-named Sir John Wither Awdry, do hereby further certify, that Oswald William Ketterer acted as Chief Clerk of the Court at Bombay for the Relief of Insolvent Debtors in the Matter of the Petition of Frederick Christian Lewis an Insolvent.

J. W. AWDRY.

(Seal.)

O. W. KETTERER, Bombay Sealer,  
the 30th of November 1840.

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At a special Court holden at the Court House, Bombay, on Saturday the Third Day of October One thousand eight hundred and forty, pursuant to an Order of Court made on the Sixteenth Day of September One thousand eight hundred and forty, by virtue of a Warrant issued under the Hand and Seal of the Right Honourable the Lord High Chancellor of Great Britain, as Speaker of the House of Lords, bearing Date at Westminster the Twenty-third Day of June One thousand eight hundred and forty, directed to the Honourable Sir John Wither Awdry, Knight, Chief Justice, and Sir Henry Roper, Knight, Judge of the Supreme Court of Judicature of the Presidency of Bombay, or other the Judges of the same Court, for the Examination of Witnesses touching the Allegations of a Bill brought into Parliament, and now depending in the House of Lords, intituled "An Act to dissolve the Marriage of John Pascal Larkins, Attorney at Law, with Eliza Bird his now Wife, and to enable him to marry again; and for other Purposes therein mentioned."

PRESENT,

The Honourable Sir John Wither Awdry, Knight, Chief Justice,  
and  
The Honourable Sir Henry Roper, Knight, one of Her Majesty's Justices.

Read Warrant marked A.

Deposition  
No. 1.

RAMCHUNDER SUCCARAM called, sworn, and examined by  
Mr. Howard.

What are you?

I am a Clerk in Mr. Bainbridge's Office.

Do you produce any Paper?

Yes; the Bombay Government Gazette.

Where did you obtain it from, and when?

From the Government Gazette Printing Office; I obtained it To-day; marked P.

(Signed) RAMCHUND SUCCARAMJEE.

---

NASSERWANJEE NOWROJEE called, sworn, and examined by Mr. Howard.

Deposition No. 2.

What are you?

I am a Clerk in Mr. Bainbridge's Office.

Have you lately made any Inquiries after Mrs. Larkins, the Wife of Mr. Larkins, the Solicitor of this Court?

Yes; I went with Ballajee Trimback, one of the Clerks in the Employ of Mr. Larkins to Mazagon, at the House where Mrs. Larkins used to stay before. I asked the Gardener there where Mrs. Larkins was; he said she used to live there, but had left the Place.

Did you ascertain how long ago Mrs. Larkins had left the Place?

He said Four or Five Months ago.

Do you know personally that she lived in that House?

No.

How did you know that was the House in which Mrs. Larkins lived?

Ballajee Trimback pointed out to me.

How often did you go there?

I went twice.

Did you make Inquiries for Mrs. Larkins of any People in the Neighbourhood?

No; I only inquired of the Gardener.

Not at any Time?

No.

Did you affix any Paper to the Doors of the House?

Yes; I nailed them on.

What were these Papers?

Copies of the Divorce Bill, and of the Five several Orders of the House of Lords, bearing Date the 5th Day of June 1840.

How do you know they were Copies?

I examined them in Office before I went there.

Would you know the Papers again with which you compared those Copies?

Yes; I nailed Copies of the Exhibits marked M. and N.

Will you swear that the Two Papers nailed on the Doors by you were true Copies of such Exhibits?

I do swear it; I compared them.

Did you leave any other Papers?

Yes; a Notice.

What Notice?

A Notice of the holding of this Court; I copied it from the Government Gazette, and compared it.

Is that the Notice in the Government Gazette, marked O.?

Yes, it is.

Did you leave any other Paper?

No.

(8.)

Where

( 28 )

Where is Magazon, where you posted these Papers ?

It is within the Island of Bombay, about Three Miles from the Fort.

(Signed) NASSERWANJEE NOWROJEE.

Interpreted by me,

(Signed) MAHOMED YOONOOS HAFFIZ,  
Sworn Interpreter.

Deposition  
No. 3.

CURSETJEE RUTNAGHUR called, sworn, and examined  
by Mr. Howard.

What are you ?

I am a Clerk in the Office of Mr. Larkins, the Attorney.

Do you produce any Paper ?

Yes ; I produce the Bombay Gazette, marked Q.

Where did you obtain that Paper from, and when ?

I obtained it this Morning from the Bombay Gazette Office.

(Signed) CURSETJEE RUTNAGUR.

Deposition  
No. 4.

SADANUND SUNKERJEE called, sworn, and examined by  
Mr. Howard.

What are you ?

I am a Clerk in the Office of Mr. Larkins.

Do you produce any Paper ?

Yes ; the Bombay United Service Gazette, marked R.

Where did you get it, and when ?

This Morning, at the Bombay United Service Gazette Office.

(Signed) SADANUND SUNKERJEE, P.

Deposition  
No. 5.

BALLAJEE TRIMBUCK called, sworn, and examined by  
Mr. Howard.

What are you ?

I am a Clerk in the Employ of Mr. Larkins.

Do you produce any Paper ?

Yes ; I got this from the Bombay Times Office. (*Witness here produces Exhibit marked K.*) I got this from the Bombay Courier Office. (*Witness produces Exhibit marked L.*)

Were you instructed by Mr. Bainbridge, Mr. Larkins's Attorney, to make any Inquiries after Mrs. Larkins ?

I was.

What did you do ?

I went to Mazagon, and inquired for her at a House belonging to Dinshaw Soobadar. She used to live there.

When did you go there ?

I commenced going there on the 1st of last Month.

How

( 29 )

How often did you go to this House ?

I went there Six or Seven Times.

Did you find Mrs. Larkins there ?

No; I asked the Gardener there. He said she lived in that House for Five or Six Months. She lived there One Month after the Discharge of Mr. Lewis ; they lived there together.

What is the Name of that Gardener ?

Luxamon Malee. (*Malee means a Gardener.*)

Did you ascertain where Mrs. Larkins had gone to ?

I asked the Gardener ; but he did not know.

Did you inquire elsewhere ?

I inquired of a Shopkeeper in the Neighbourhood ; but he did not know.

What did you do on not meeting with Mrs. Larkins on the last Occasion that you went there ?

Mr. Bainbridge's Parsee Clerk, Nasserwanjee Newrojee, who accompanied me, fixed several Papers on the Gate. I only accompanied him.

(*By the Chief Justice.*) With regard to these Matters did you receive your Orders from Mr. Larkins or from Mr. Bainbridge ?

From Mr. Bainbridge.

None at all from Mr. Larkins ?

None.

(Signed) BALLAJEE TRIMBUCKJEE.

Interpreted by me,

(Signed) MAHOMED YOONOOS HAFFIZ,  
Sworn Interpreter.

JOSEPH GREGORY called, sworn, and examined by Mr. Howard.

Deposition  
No. 6.

What are you ?

I am an Armenian.

Did you know Mr. Frederick Christian Lewis ?

Yes.

What was he ?

A Drawing Master.

Were you in his Service ?

Yes.

Did you come with him from any Place to Bombay ?

Yes ; from Bushire.

Do you remember when you arrived here with him ?

In 1838.

Was it the Beginning, the Middle, or the End of that Year ?

I do not recollect.

Do you know Mr. Larkins, an Attorney of this Court ?

Yes.

Was Mr. Lewis at any Time on a Visit to Mr. Larkins ?

Yes, he was.

(8.)

H

How

How long was Mr. Lewis at Mr. Larkins's ?

About a Month.

Where did Mr. Lewis go after leaving Mr. Larkins ?

He stayed a few Days in the Fort, and then went to Bushire.

In what Ship did he go ?

In the Fortfield, Captain Sly.

Did you accompany Mr. Lewis in that Vessel ?

Yes.

Did any one else go on board that Vessel ; any Lady ?

Yes ; Mrs. Larkins and a Lady's Maid.

Do you know the Name of that Lady's Maid ?

Mary Richardson.

Do you know where she is now ?

No.

Had you seen Mrs. Larkins at any Time before ?

Yes ; I had seen her in Bombay.

Did Mr. Lewis and Mrs. Larkins occupy the same Cabin on board that Vessel ?

The same Cabin.

Did they sleep in the same Cabin ?

Yes.

When did the Ship arrive at Bushire ?

I do not recollect.

After you arrived at Bushire, how long did you remain in Mr. Lewis's Service ?

Until Mrs. Larkins returned to Bombay.

Did you return in the same Vessel with Mrs. Larkins ?

Yes ; in a Native Vessel.

Did Mrs. Larkins and Mr. Lewis return in the same Boat ?

No ; Mrs. Larkins came alone, and I accompanied her at Mr. Lewis's Directions.

Did Mr. Lewis and Mrs. Larkins live together at Bushire in the same House ?

Yes.

What was this Cabin ; a private Cabin ?

Yes, a small Cabin.

(Signed) JOSEPH GREGORY.

Interpreted by me,

(Signed) MAHOMED YOONOOS HAFFIZ,  
Sworn Interpreter.

Deposition  
No. 7.

JEWAJEE NOWROJEE called, sworn, and examined by  
Mr. Howard.

What are you ?

I am Butler to Sir Henry Roper.

Are you acquainted with Mr. John Pascal Larkins, one of the Solicitors in this Court ?

I am.

Were

Were you not some Time in his Employ as Butler ?

I was.

For what Length of Time ?

For Six Months.

When ?

In the Year 1838.

Do you recollect Mrs. Larkins, the Wife of Mr. Larkins, arriving from England in March or April 1838 ?

I recollect her coming to Bombay, but cannot say in what Month ; it was in the Year 1838.

Where did Mr. and Mrs. Larkins reside from that Time ?

At Breach Candy, in the Island of Bombay.

Do you know where Mrs. Larkins is now ?

I do not know.

Do you remember her eloping from the House at Breach Candy ?

I do.

About what Time was that ?

It was on a Saturday at the latter End of October 1838 ; I do not recollect the Date.

Were you in the Service of Mr. Larkins at that Time ?

I was.

Do you know whether Mrs. Larkins left the House in company with any other Person ?

When she left the House she was alone.

Was any Visitor staying in the House with Mr. and Mrs. Larkins at this Time ?

Yes ; Mr. Lewis.

How long had he been staying in the House previous to Mrs. Larkins's Elopement ?

About Two or Three Weeks.

Had he visited at the House previous to residing there ?

Yes, for about a Week or Two ; he used to come to take Breakfast there every Morning, and went away about Twelve or One.

Where was Mr. Larkins at the Time Mrs. Larkins left her House ?

He was in his Office in the Fort.

At what Time did he usually go to his Office.

Sometimes at Nine, when he had any particular Business ; sometimes at Ten.

At what Hour did Mrs. Larkins leave the House ?

At Eleven or Half past Eleven in the Morning.

Did you ever see Mrs. Larkins again ?

No. I was not in Bombay.

When did you leave Bombay ?

On the 12th November in the same Year in which Mrs. Larkins left the House.

During the remaining Days of your Service in Bombay did you see Mrs. Larkins ?

No.

Did Mrs. Larkins leave the House in any Carriage ?

In a Shigram (*Palanqueen Carriage*).

(8.)

Do



Do you know where she went ?

She told me that she would first go to the Fort, and afterwards to Colabah, to the Residence of the Reverend Mr. Candy.

Had Mr. Lewis been there that Morning before Mr. Larkins left ?

He had been there before, but when I went there he was not there.

At what Hour did you go there that Morning ?

At Ten or Half past Ten.

Did you see him there the Night before ?

I do not recollect.

Did he dine or sleep in the House the Night before ?

I do not recollect ; it is Two Years ago.

Whilst you were in Mr. Larkins's Service had you many Opportunities of observing Mr. and Mrs. Larkins together ?

I had.

Was it your Duty to attend on them at Meals ?

It was.

Will you be good enough to state on what Terms they appeared to be living, whether of Affection or otherwise ?

They were on good Terms.

Do you know Colonel and Mrs. Dickinson ?

I do.

Were they in the habit of visiting Mr. and Mrs. Larkins ?

Mrs. Dickinson used to call sometimes.

Did any other Ladies visit Mrs. Larkins ?

I do not recollect.

Do you know Mrs. Candy ?

I do.

Did Mrs. Candy visit Mrs. Larkins ?

She may have called, but I do not remember having seen her.

Did Mr. Larkins keep a Carriage for Mrs. Larkins ?

Yes.

Did he keep a Riding Horse for her ?

Yes.

When Mr. Larkins returned from Office in the Evening, did he usually accompany Mrs. Larkins in her Evening Ride or Drive ?

Yes.

Did they continue to ride and drive together up to the Period of Mrs. Larkins's Elopement ?

Yes.

Did Mr. Larkins appear to you to be an indulgent and affectionate Husband, as far as you had Opportunities of judging, whilst in his Service ?

Yes ; he was very kind to Mrs. Larkins.

(Signed) JEWAJEE NAUROJEE D.

Interpreted by me,

(Signed) MAHOMED YOONOOS HAFFIZ,  
Sworn Interpreter.

ACTON SMEE AYRTON called, sworn, and examined by  
Mr. Howard.

Deposition  
No. 8.

Are you One of the Attornies of this Court ?

I am.

Were you the Proctor for Mrs. Eliza Bird Larkins, in the Suit  
instituted against her by her Husband in this Court for a Divorce ?

I was.

Are you instructed by her with reference to the present Pro-  
ceedings ?

I am.

Do you know where Mrs. Larkins is now ?

I believe in Secundrabad in the Nizam's Territory.

When did she leave Bombay ?

I do not recollect the Time ; it was shortly after Mr. Lewis's Dis-  
charge from Prison.

Has she been in Bombay for the last Six Months ?

I believe not.

What Mr. Lewis do you mean ?

The Defendant in the Action on the Plea Side of this Court at the  
Suit of Mr. Larkins.

Were you Mr. Lewis's Attorney in the Action ?

I was.

What was his Christian Name ?

Frederick Christian.

What was he ?

An Artist.

Is he now in Bombay ?

No ; he is also, I believe, at Secundrabad.

Have you been served with certain Papers in these Proceedings ?

I have.

Do you produce them ?

Yes. (*Witness produces the Papers marked B., C., and D.*)

By whom were you served with these Papers ?

By Mr. Bainbridge's Clerk.

Did you not communicate to Mr. Bainbridge that you would accept  
Service of these Papers as Mrs. Larkin's Proctor ?

I did.

Do you know in what Part of the Island of Bombay Mrs. Larkins  
was residing when last in Bombay ?

I believe in Mazagon.

Were you Mr. Lewis's Attorney on his applying for the Benefit of  
the Insolvent Act ?

I was.

Do you know whether Mr. Lewis ever paid the Damages or Costs  
in the Action at Law which you defended for him ?

I believe neither the one or the other.

Do you know why such Costs and Damages were not paid ?

He relieved himself from them by taking the Benefit of the Act.

(8.)

I

Do

Do you remember how many Times he was brought up to the Insolvent Debtors Court for the Purpose of obtaining his Discharge under the Act?

I can tell by looking at some Papers; to the best of my Remembrance he was brought up Three Times.

Do you remember if Mr. Lewis's Discharge was opposed by any one on behalf of Mr. Larkins?

He was opposed by Mr. Larkins, through his Attorney, Mr. Bainbridge.

Did he appear by Counsel?

He did.

Was not Mr. Lewis ultimately discharged without Opposition on behalf of Mr. Larkins?

Yes; on the last Occasion no Opposition was gone into.

For what Space of Time had Mr. Lewis been in Prison at the Time of his Discharge by the Insolvent Court?

Since his Arrest in the Action at Law.

(*By Sir John Awdry.*) Was there any thing in Mr. Larkins's Opposition to Mr. Lewis's Discharge which would lead you to believe that it was merely colourable?

The Opposition, as far as I can form an Opinion, was evidently sincere, and I believed it would have been persisted in to the last Moment.

I do not ask as to any Instructions which you may have received or given to Counsel; but speaking from the Manner in which Mr. Lewis's Case was conducted in open Court, both at the Trial at Law and in the Insolvent Court, was not the Resistance on his Side evidently hostile?

We resisted the Action, and defended it as strenuously as we could; I was also prepared to enter into a full Defence of Mr. Lewis in the Insolvent Debtors Court.

(*Mr. Howard.*) Are you aware why the Opposition to the Discharge of Mr. Lewis in the Insolvent Debtors Court was not persisted in?

The Opposition was not abandoned entirely; it was not gone into. My Impression of what then passed between Counsel is, that Mr. Larkins's Counsel considered that Mr. Lewis had been detained in Prison a sufficiently long Time.

Do you produce any Orders by the Insolvent Court?

I produce an Order giving Leave to file the Petition of Mr. Lewis, praying for the Benefit of the Insolvent Debtors Act, marked E., also the several Orders marked F., G., H., and I.

Do you expect Mrs. Larkins in Bombay?

I do not.

Were you Mrs. Larkins's Proctor in the Ecclesiastical Suit instituted against her by her Husband?

Yes, I was.

How came you to be employed by Mrs. Larkins on that Occasion; were you acquainted with her previously?

No; she came to my Office on the first Occasion that I saw her, and I believe by the Direction of Mr. Lewis.

When

( 35 )

When that Suit came to a Hearing, did you appear by Counsel in Court on behalf of Mrs. Larkins?

No.

(By Sir John Awdry.) In not appearing by Counsel for Mrs. Larkins at the Hearing of the Suit, did you act on your own Discretion?

I acted on my own Opinion, in communication with Counsel.

In interlocutory Matters in that Cause, as, for instance, on the Question of Alimony, was there not some angry Discussion?

Yes, there was.

(By Mr. Howard.) If you had thought that you could have made a Defence on the Pleadings and Evidence would you have instructed Counsel to appear at the Hearing on behalf of your Client?

Yes, I certainly should; but I speak in regard to my own Feelings, without reference to my Instructions.

Had you any Reason to believe that Mr. Larkins was at all aware of what was taking place in your Office with regard to that Suit?

Not the least Reason.

Do you, in fact, believe that there was any Understanding whatever, tacit or otherwise, between Mr. Larkins and any other Person, in regard to the Mode in which that Suit should be defended?

I believe there was none.

(By Sir John Awdry.) Was not Mary Richardson the principal Witness as to the Transaction shortly before Mrs. Larkins left her Home?

Yes.

Was she Mrs. Larkins's Servant?

Yes.

Can you give the Court any Information as to where she could be found?

I have heard lately that she was on the Malabar Coast.

Whereabouts on the Malabar Coast?

At Calicut, I believe.

Do you desire that Counsel should be heard on behalf of Mrs. Larkins in the Matter of this Bill?

No.

Are you prepared here to watch the Proceedings?

I am instructed to do so.

(By Mr. Howard.) Have you had a List of the Witnesses given you who are about to be examined on behalf of Mr. Larkins in this Matter?

Yes, I have.

ACTON S. AYRTON.

AGA MAHOMED JAFFER called, sworn, and examined by  
Mr. Howard.

Deposition  
No. 9.

Are you in the Office of Aga Mahomed Rahim in Bombay?  
Yes, I am.

(8.)

Did

Did not Aga Mahomed Rahim, some Time back, charter the Barque "Fortfield"?

Yes.

Do you know where that Vessel is now?

No, I do not.

Is she in Bombay Harbour?

No, she is not.

When was it that Aga Mahomed Rahim chartered her?

About Two Years ago.

Where did she go to from Bombay?

To the Persian Gulf.

Can you tell me when she left Bombay?

On or about the 22d Day of September 1838.

Do you know who was the Master of the "Fortfield" at that Time?

Yes; James Sly.

Is Mr. Sly now in Bombay?

No, I believe not.

Do you know Mr. Larkins, an Attorney of this Court, and Mrs. Larkins his Wife?

Yes; I knew them both.

Are you aware whether Mrs. Larkins was a Passenger in the "Fortfield" when she left Bombay in September 1838?

Yes; I know she left in that Vessel.

Was her Passage taken at your Office?

Yes, it was.

In whose Name?

In the Name of Mrs. Lewis.

How do you know that Fact?

I know it by being one Day present at a Conversation between Aga Mahomed Rahim and Mr. Lewis.

Who engaged the Passage?

Mr. Lewis; I do not know his Christian Name.

How do you know that Mr. Lewis took the Passage in the Name of Mrs. Lewis?

I was present when he told Aga Mahomed Rahim that his Relation, Mr. Lewis, and Mrs. Lewis, were coming from Poona.

(By Mr. Justice Roper.) Did he mention the Relation's Name?

Yes; I think he said his Name was Frederick Lewis.

Did he mention for One Person or Two Persons?

For Two; he said for a Gentleman and a Lady.

(Signed) MAHOMED JAFFER.

Deposition  
No. 10.

JAMES GEDDES called, sworn, and examined by Mr. Howard.

What are you?

I am Marshal of the Bombay Gaol.

Had you, during any Part of the Year 1839, a Person in your Custody of the Name of Lewis?

I had.

What

( 97 )

What are his Christian Names ?

Frederick Christian.

What was Mr. Lewis ?

He was an Artist.

Do you know about what Space of Time he remained in your Custody ?

He was confined on the 7th of February 1839, and released on the 1st of October of the same Year.

Was he confined in the Bombay Gaol all that Period without Intermission ?

Yes ; except when he was brought up to the Insolvent Court.

(Signed) JAMES GEDDES.

The Reverend JOHN WILSON called, sworn, and examined by  
Mr. Howard.

Deposition  
No. 11.

What are you ?

I am a Missionary of the General Assembly of the Church of Scotland.

Are you acquainted with Mr. John Pascal Larkins, One of the Attornies of this Court ?

I am.

How long have you known him ?

About Five Years ?

Were you acquainted with Mrs. Larkins ?

Yes ; I became acquainted with her in April 1838, after her Arrival from England.

Were you in the habit of visiting them after that Period ?

I occasionally visited them after the Arrival of Mrs. Larkins.

Did you meet Mrs. Larkins elsewhere ?

I may have met her elsewhere, but I do not remember the Occasions.

On what Terms did you consider Mr. and Mrs. Larkins to be living ; on Terms of Affection or not ?

As far as I observed I considered them to be living on good Terms.

Did Mr. Larkins appear to you to be a kind and indulgent Husband ?

Yes, he did appear so.

Had they any Family ?

Yes, they had. I saw One Child.

Do you remember the Event of Mrs. Larkins eloping from her Husband ?

I was not in Bombay at that Time.

When did you return to Bombay ?

A few Days after that Occurrence.

How soon after your Return did you see Mr. Larkins ?

Two or Three Days after.

Did Mr. Larkins appear to be in great Distress of Mind at that Time ?

He appeared to be very deeply afflicted at the Circumstance.

(8.)

K

Did

Did he continue so for any Space of Time ?  
He did.

Examined by the Court.

Would you not judge Mr. Larkins to be naturally a Person of irritable Temper ?

Yes ; but, notwithstanding, I believe his Conduct to have been that of an affectionate Husband.

(Signed) JOHN WILSON D.D.

Deposition  
No. 12.

The Reverend GEORGE CANDY called, sworn, and examined by Mr. Howard.

Are you acquainted with Mr. Larkins, an Attorney of this Court ?  
Yes, I am.

How long have you been acquainted with him ?  
Our Acquaintance commenced, I think, in 1837.

Did you visit at the House of Mr. and Mrs. Larkins after her Arrival in Bombay from England in 1838 ?

Yes.

Had you many Opportunities of seeing Mr. and Mrs. Larkins in Company ?

Yes ; I lived a Week with them at their House.

Did you consider the Conduct of Mr. Larkins towards his Wife to be that of an affectionate Husband ?

Quite so.

Was he kind and indulgent to her ?

He was kind and indulgent ; but his Manner, not to her in particular, but to every body, was somewhat abrupt. I considered Mr. Larkins to have warm Feelings.

Do you consider him to be naturally an irritable Person ?

Yes.

Do you know when last you saw Mr. and Mrs. Larkins together before Mr. Larkins's Wife left the House ?

A few Days previously.

What was their Demeanour to one another ?

On that Occasion there was nothing particular to attract my Attention ; there were several Persons present, and they did not sit much together.

Did you see Mr. Larkins shortly after Mrs. Larkins finally left the House ?

A few Days afterwards.

Did Mr. Larkins appear to you much distressed at the Event ?

Very much so ; indeed I believe one or other of his Friends was always with him for some Time after that.

Is Mrs. Candy in Bombay now ?

No, she is not ; she is at Poona.

Is Mrs. Candy confined to the House ?

Yes ; and to her Room, I may say.

Was

( 39 )

Was she examined at the Trial of the Action at Law brought by Mr. Larkins against Mr. Lewis?

No; she was too unwell to attend.

Had any Request been made to her on behalf of Mr. Larkins to attend and give Evidence at the Trial?

Yes; but she was confined to her Couch, and unable to attend.

Do you know whether any other Ladies visited Mrs. Larkins besides Mrs. Candy?

I do not recollect; but I think I have seen Miss Bayne there, Dr. Wilson's Sister-in-Law.

Do you know Mrs. Dickinson?

Yes; but I do not remember having seen her there.

(Signed) GEORGE CANDY.

THOMAS LANCASTER called, sworn, and examined by Mr. Howard.

Deposition  
No. 13.

What are you?

I am a Merchant of Bombay.

Are you acquainted with Mr. Larkins, an Attorney of this Court?

Yes, I am.

How long have you known him?

About Three Years.

Are you on intimate Terms with him?

Yes.

Did you know Mrs. Larkins, his Wife?

Yes.

Do you remember her return to Bombay in April 1838?

I recollect her returning from England to Bombay in the Ship "Euphrates"; I do not recollect the Time; I did not know her before.

Did you visit much at the House of Mr. and Mrs. Larkins?

I was there once a Week on an Average.

Did they appear to you to live on affectionate Terms, or the contrary?

On affectionate Terms.

Did Mr. Larkins appear to you to be a kind and indulgent Husband?

Yes.

What Ladies visited at the House about this Period?

I recollect meeting Mrs. Candy there, and Mrs. Dickinson.

Did Mr. and Mrs. Larkins go out in Society much, or had they an extensive Acquaintance?

I do not know.

When did you see Mr. Larkins after Mrs. Larkins's Elopement?

On the same Day.

Did you see him constantly for any Space of Time afterwards?

I lived with him for the next Ten Days or a Fortnight.

(8.)

Did



Did you live with him before Mrs. Larkins went away?  
I spent the Evening there occasionally, and stayed the Night.

Did Mr. Larkins appear in great mental Distress at Mrs. Larkins's Departure?

Yes; in very great Distress.

Did he attend to his Business during those Ten Days or a Fort-night?

No; he came to my Office.

Why did he go to your Office?

In order that his Business should not distract him.

(By Sir Henry Roper.) Did Mrs. Larkins leave the Child behind, or take it with her?

She left the Child behind.

(By Mr. Howard.) Did any one else live in the House with you and Mrs. Larkins during those Ten Days?

Yes; Mr. King, a Merchant of Bombay.

Did not Mr. Larkins afterwards go to Mahableswar?

Yes.

(By Sir Henry Roper.) Was Mr. Lewis on a Visit at Mr. Larkins's House before Mrs. Larkins went away?

Yes.

For how long?

About a Month.

During the Time of this Visit of Mr. Lewis did you ever observe any improper Conduct between him and Mrs. Larkins?

No.

Did you consider Mr. Larkins a Man of irritable Temper?

I think rather irritable.

Did you ever observe any Manifestations of that Kind of Temper towards his Wife?

I cannot immediately recall any such.

Upon the whole did you consider his Conduct towards his Wife affectionate?

Certainly.

(Signed) THOS. LANCASTER.

Deposition  
No. 14.

GEORGE SMITH KING called, sworn, and examined by  
Mr. Howard.

What are you?

I am a Merchant.

Are you acquainted with Mr. Larkins, an Attorney of this Court?

Yes, I am.

Did you know Mrs. Larkins?

Yes.

When did you become acquainted with her?

When she arrived from England, about the Month of March or April 1838.

Were you in the habit of visiting Mr. and Mrs. Larkins?

Yes; I saw them Once or Twice a Week.

Did

( 41 )

Did they see much Society at their House, or did they go out much ?

They went into Society.

Was their Acquaintance extensive ?

No.

Have you seen any Ladies there ?

Yes ; I have seen Mrs. Dickinson and Miss Dickinson, and I think Mrs. Nesbitt.

Did Mr. and Mrs. Larkins live together on affectionate Terms ?

Yes ; on affectionate Terms till within a Fortnight or Three Weeks of the Time of her Elopement.

What Change took place during that Fortnight or Three Weeks ?

It was more from what Mr. Larkins told me at the Time than from any thing I observed that I make this Remark.

Can you remember any thing that Mr. Larkins then said to you ; what was the Nature of the Conversation ?

He complained of the Conduct of his Wife, and in reference to Mr. Lewis.

What was the Nature of the Complaint he made.

I remember Mr. Larkins saying that he thought Mr. Lewis had been putting fashionable Ideas in Mrs. Larkins's Head ; that she listened to him, and seemed to approve of them.

How soon after the Elopement of Mrs. Larkins did you next see Mr. Larkins ?

I was with Mr. Larkins on that Day ; I arrived at his House about Half an Hour after.

Did Mr. Larkins appear much afflicted at the Event ?

Yes ; very much.

Did you stay with Mr. Larkins any Time ?

Yes ; I remained with him about a Fortnight or Three Weeks.

Mr. Lancaster was also staying there, was he not ?

I forget whether he stayed there always or occasionally ; but he was there.

Judging from what you saw of Mr. Larkins's Conduct during the Time that you was staying in the House with him, should you say that he really entertained great Affection for his Wife ?

Yes ; very great Affection.

(Signed) GEO. S. KING.

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SEBASTIAN STEWART DICKINSON Esquire called, sworn,  
and examined by Mr. Howard.

Deposition  
No. 14.

What are you ?

I am a Barrister of this Court.

Are you the Son of Colonel and Mrs. Dickinson ?

I am.

Is Mrs. Dickinson now in Bombay ?

No ; she is gone to Khandalla.

(8.)

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(By

(By Sir John Awdry.) How far is Khandalla from here?  
About a Day's Journey, I believe.

When do you expect Mrs. Dickinson?  
In about Five or Six Weeks.

(Signed) SEB<sup>d</sup> S. DICKINSON.

Deposition  
No. 15.

OSWALD WILLIAM KETTERER called, sworn, and examined  
by Mr. Howard.

What are you?  
Clerk to the Chief Justice.

Do you know Mr. Larkins, the Solicitor of this Court?  
Yes.

Is he not also the Chief Clerk of the Insolvent Court?  
Yes.

Have you at any Time acted for Mr. Larkins as Chief Clerk of the  
Insolvent Debtors Court?

Yes; in Court at the Hearing of the Petition of Mr. Lewis for the  
Benefit of the Insolvent Act.

(Signed) O. W. KETTERER.

Deposition  
No. 16.

CHARLES HARDY BAINBRIDGE called, sworn, and examined  
by Mr. Howard.

What are you?

I am a Partner in the Firm of Messieurs Patch and Bainbridge,  
Attornies of this Court, and I am also Solicitor for Mr. Larkins in  
these Proceedings.

Do you know where Mary Richardson, the Person stated to have  
been the Servant of Mrs. Larkins, now is?

No.

Is she in Bombay?

I believe not; I have heard that she is at Calicut, on the Malabar  
Coast.

What is she doing there?

She is living as a single Woman there, I have heard.

Could you have procured her Attendance here To-day?

I believe not.

According to the Information which you have, is Calicut within or  
beyond the Jurisdiction of Bombay?

Beyond the Jurisdiction.

In the various Proceedings which have been conducted by you on  
behalf of Mr. Larkins against his Wife, and against Mr. Lewis, have  
you been in any way controlled by Mr. Larkins or any other  
Person?

Not at all; I have had the sole Conduct of them all, and have  
acted on my own Discretion and the Advice of Counsel.

Has there been any Collusion between the Parties, to your Know-  
ledge or Belief, either in Parliament or elsewhere?

I should say certainly not.

(By

(By Sir John Awdry.) How did it happen that the Opposition to Mr. Lewis's Discharge by the Insolvent Debtors Court was withdrawn?

In consequence of your Lordships having heard the Case alone on the Plea Side of the Supreme Court, Mr. Lewis's Petition for the Benefit of the Act stood over for the Arrival of Sir Henry Roper from England, and I think there was a longer Interval than usual between the Insolvent Court Days at that Time, as one Day fell on a Holiday, and my Client having left the Case altogether in my Hands, I instructed Counsel, that as another Judge had not arrived, as had been expected, and Mr. Lewis had suffered a considerable Imprisonment, at a very bad Period of the Year, merely to draw the Attention of the Court to the Penal Clause in the Insolvent Act, if your Lordships should have no Objection to hearing the Case alone, as I conceived that to press for further Imprisonment would cause a bad Opinion to be entertained of my Client, and would appear mere Revenge towards the Insolvent.

(Signed) C. H. BAINBRIDGE.

JOHN PASCAL LARKINS was tendered to the Court as a Witness by Mr. Howard, and sworn, and examined by the Court.

Deposition No. 17.

Has there been any Collusion between you and Mrs. Larkins, directly or indirectly, or any other Person or Persons, touching the Bill of Divorce, or touching the Proceedings or Sentence of Divorce had on the Ecclesiastical Side of the Supreme Court?

Not any.

(Signed) J. P. LARKINS.

True Copies.  
SPENCER COMPTON,  
Ecclesiastical Registrar.

In the Court for the Relief of Insolvent Debtors, Bombay.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth.

In the Matter of the Petition of Frederick Christian Lewis, an Insolvent.

Upon Motion of Mr. Campbell, being of Counsel for the said Insolvent, that the said Insolvent may be at liberty to file his Petition praying for the Relief contained in the Insolvent Debtors Act, together with an Assignment of his Estate and Effects to the Common Assignee, and upon reading the Certificate of the Prothonotary, of this Date, it is ordered, That the said Motion be, and it is hereby granted. Witness Sir John Wither Awdry, Knight, Chief Justice at Bombay aforesaid this Fifth Day of August One thousand eight hundred and thirty-nine.

(Signed) J. P. LARKINS,  
Chief Clerk.

(Seal)

(Signed) J. P. LARKINS, Sealer,  
the 5th Day of August 1839.

(8.)

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In the Court for the Relief of Insolvent Debtors at Bombay.

In the Matter of the Petition of Frederick Christian Lewis of Bombay,  
British Inhabitant.

Bombay } The above named Frederick Christian Lewis puts in his Place  
to wit. } and Stead Acton Smee Ayrton, Gentleman, his Attorney  
in the above Matter. Dated this Thirtieth Day of July One thousand  
eight hundred and thirty-nine.

(Signed) FRE<sup>d</sup>. C. LEWIS.

Witness.

(Signed) DADOHA WETTOJEE.

I do hereby certify, that Frederick Christian Lewis was confined in  
Gaol on the Seventh February One thousand eight hundred and thirty-  
nine, at the Suit of John Pascal Larkins, under a Writ of Capias ; and  
that on the Third August One thousand eight hundred and thirty-  
nine a Writ of Ca. sa. for Rupees 4,080, at the same Suit, was received,  
and he is still in my Custody. Given under my Hand.

(Signed) JA<sup>s</sup> GEDDES,  
Marshal.

Bombay County Gaol,  
3d August 1839.

In the Court for the Relief of Insolvent Debtors at Bombay.

To the Honourable Sir John Wither Awdry, Knight, Chief Justice  
of the Supreme Court of Judicature at Bombay, sitting as Com-  
missioner of the aforesaid Court for the Relief of Insolvent  
Debtors at Bombay.

The humble Petition of Frederick Christian Lewis of Bombay, British  
Inhabitant, at present confined in the Gaol of Bombay, for Debt,

Showeth,

That your Petitioner lately carried on Business as an Artist at  
Bombay :

That your Petitioner was on the Seventh Day of February now last  
past, in the present Year of our Lord One thousand eight hundred and  
thirty-nine, confined in Gaol under a Writ of Capias ad respondendum,  
issued for the Sum of Rupees Ten thousand, at the Suit of John Pascal  
Larkins, in an Action of Trespass ; and that on the Third Day of  
August instant your Petitioner was charged in Execution under a Writ  
of Capias ad satisfaciendum for the Sum of Rupees Four thousand  
and eighty, the Damages and Costs recovered by the said John Pascal  
Larkins in the same Suit, under which your Petitioner is now detained  
a Prisoner in the said Gaol :

That in and by an Act of Parliament made and passed in the Ninth  
Year of the Reign of His late Majesty King George the Fourth,  
certain

( 45 )

certain Provisions for the Relief of Insolvent Debtors in the East Indies are made and contained, of which Provisions your Petitioner, being unable to discharge such Damages and Costs, is desirous of availing himself.

Your Petitioner therefore most humbly prays that your Lordship will be pleased to grant unto your Petitioner the Benefit of the said Act for the Relief of Insolvent Debtors in the East Indies.

And your Petitioner will ever pray.

(Signed) FRED. C. LEWIS.

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This Indenture, made the Third Day of August in the Year of our Lord One thousand eight hundred and thirty-nine, between Frederick Christian Lewis of Bombay, British Inhabitant, at present confined in the Gaol of Bombay for Debt, of the one Part, and Spencer Compton, also of Bombay, Esquire, the Common Assignee of the Court for the Relief of Insolvent Debtors at Bombay, duly appointed by the Supreme Court of Judicature at Bombay, of the other Part : Whereas the said Frederick Christian Lewis lately carried on Business as an Artist at Bombay : And whereas the said Frederick Christian Lewis is at present confined in the Gaol within the Limits of the Town of Bombay for Damages and Costs ; and he, being desirous of availing himself of the Provisions contained in an Act of Parliament made and passed in the Ninth Year of the Reign of His late Majesty King George the Fourth, intituled " An Act to provide for the Relief of Insolvent Debtors in the East Indies until the First Day of March One thousand eight hundred and thirty-three," for enabling Persons imprisoned for Debt within the Limits of the Town of Bombay to obtain their Discharge therefrom, which said Act has been continued in force by subsequent Acts of Parliament for further Periods of Time, and which has been subsequently continued in force until this present Period by an Act of the Legislative Council of India, has, in compliance with the Directions of the said first-mentioned Act in that Behalf, duly presented a Petition to the said Court for the Relief of Insolvent Debtors, praying for the Benefit of the said Act : And whereas the said Frederick Christian Lewis, in further Compliance with the Directions of the first-mentioned Act in that Behalf, is desirous of executing to the said Spencer Compton, as such Common Assignee as aforesaid, such Conveyance and Assignment as is herein-after contained, and the said Spencer Compton, as such Common Assignee as aforesaid, is satisfied with and doth approve of such Conveyance and Assignment as he doth hereby acknowledge : Now this Indenture witnesseth, That in consideration of the Premises, and for carrying the Provisions of the said Act into effect, and in further Consideration of the Sum of Five Rupees of lawful current Money of Bombay, now paid by the said Spencer Compton to the said Frederick Christian Lewis, the Receipt whereof is hereby acknowledged, he the said Frederick Christian Lewis, by virtue of the before-mentioned Act of Parliament, and in obedience thereto, hath granted, bargained, sold, assigned, transferred, and set over, and by these Presents doth grant, bargain, sell, assign, transfer,

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set over, release, and confirm, unto the said Spencer Compton, and to his Successors in the Office of Common Assignee, and his and their Assigns, all and singular his Messuages, Lands, Tenements, real and immoveable Estates whatsoever and wheresoever, and also all and singular the ready Money, Securities for Money, Goods, Chattels, Merchandize, and all other the personal Estate and Effects whatsoever, and also all Rights, due Claims, Choses in Action, Interest, and Property whatsoever which at the Time of executing these Presents he the said Frederick Christian Lewis is possessed of, interested in, or entitled unto, solely and separately, or jointly with any other Person or Persons, or which shall in any way come to or be acquired by him the said Frederick Christian Lewis, in Possession, Reversion, Remainder, or Expectancy, before the said Court shall have made its final Order in the Matter of the said Petition, and the Reversion and Reversions, Remainder and Remainders, yearly and other Rents, Issues, and Profits of the said Messuages, Lands, Tenements, and real or immoveable Estate, and every Part thereof, and all the Estate, Right, Title, Interest, Equity of Redemption, Property, Claim, and Demand whatsoever of him the said Frederick Christian Lewis of, in, or upon the said real and immoveable and personal Estate and Effects and Premises respectively, to have and to hold, receive and take, the said real and immoveable and personal Estate and Effects, and all and singular other the Premises hereby conveyed and assigned, or intended so to be, and every Part and Parcel thereof, unto the said Spencer Compton and his Successors in the Office of Common Assignee, and his and their Assigns for ever, in Trust nevertheless for the Use, Benefit, and Advantage of all the Creditors of the said Frederick Christian Lewis, or of such of them as shall in due Time come in as Creditors, and seek Relief according to the Limitations and Directions of the above-recited Act of Parliament in that Behalf made and provided, in proportion to their respective Dues and just Claims, and to and for no other Use, Intent, or Purpose whatsoever. In witness whereof the said Parties to these Presents have hereunto set and subscribed their Hands and Seals the Day and Year first above written.

(Signed) FRED. C. LEWIS. (Seal.)

Signed, sealed, and delivered by the  
above-named Frederick Christian  
Lewis in the Presence of

(Signed) JA<sup>s</sup> GEDDES,  
Marshal.

(Signed) SPENCER COMPTON. (Seal.)

Signed, sealed, and delivered by the  
above-named Spencer Compton,  
in the Presence of

(Signed) C. FITZROY.

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CREDITORS

CREDITORS and CLAIMANTS on the ESTATE of FREDERICK CHRISTIAN LEWIS of BOMBAY, an Artist.

Names of Creditors.	Residence.	Nature of Debt, and Date of Security, if any.	Amount of Debt in Bombay Rupees.			Date when contracted.	Disputed or admitted.	Observations.
			R.	Q.	P.			
John Pascal Larkins, Esquire.	Bombay	Damages and Costs in an Action of Trespass.	4,080	0	0	31 July 1839	Admitted	The said Frederick Christian Lewis is charged in Execution under a Writ of Ca. sa. for this Amount.
Messrs. Forbes and Company.	Do.	Cash advanced on Bill drawn upon Frederick Christian Lewis, Esquire, London, for 100L., which has been protested for Non-acceptance.	1,046	8	5	May 1839	Ditto	
Captain Hennell	Kurock	Cash advanced on Bill drawn upon Frederick Christian Lewis, Esquire, London, in Captain Hennell's Favour, for 250L., which has been protested for Non-acceptance.	2,500	0	0	27 Dec. 1838	Ditto	The like Interests and Costs are claimed on this Bill.
Messrs. Remington and Company.	Bombay	The present Holders of the said Bill for 250L.	2,500	0	0	25 June 1839	Ditto	Messrs. Remington and Company hold this Bill as Agents for Captain Hennell, and not on their own Account.
Jehangeer Nasserwanjee, Merchant.	Ditto	For Goods received. This Creditor agreed to receive the Balance in Pictures.	414	0	0	August 1839	Ditto.	
Spencer Compton, Esq., as Assignee of Mathews and Barrow, Watch-makers.	Ditto	For Articles of Jewellery received.	821	0	0	August or Sept. 1838.	Amount disputed.	
Acton Smee Ayrton, Esquire.	Ditto	For Law Costs	396	12	0	June 1839	Admitted	
Suddashire, Native Tailor.	Ditto	For making Wearing Apparel.	127	0	0	August 1838	Ditto.	
Jejeebhoy Dadabhoy, Esquire, Broker.	Ditto	Money advanced on account of Pictures which are being painted to his Order.	500	0	0	January 1839	Ditto.	
Jugonath Sunkersett, Esquire.	Ditto	Advanced on account of Portrait partly painted for him.	150	0	0	August 1838	Ditto.	
Gungather Shastry, Esquire.	Ditto	Ditto	125	0	0	Ditto	Ditto.	
Mr. Kachler, Tailor	Soho Square, London.	For Wearing Apparel	500	0	0	Since 1836	Ditto	These Sums, to the best of the said Frederick Christian Lewis's Knowledge, are the Balances of the Accounts of the Creditors, but the exact Account is not known to him.
Mr. Brown, Colour Maker.	High Holborn, London.	For Painting Materials	300	0	0	Ditto	Ditto	
Mr. Guillet, Frame Maker.	Hollen Street, Soho, London.	For Picture Frames	300	0	0	Ditto	Ditto	
Mr. Scatchened, a Boot Maker.	Marylebone Street, London.	For Boots and Shoes	80	0	0	Ditto	Ditto	
Mr. Robinson, Cabinet Maker.	Great Queen Street, London.	For Artists Materials	220	0	0	Ditto	Ditto	
			13,560	4	5			

(Signed) FRED. C. LEWIS,



REAL and PERSONAL EFFECTS and PROPERTY belonging to the said FREDERICK CHRISTIAN LEWIS.

	R.	Q.	R.
Unfinished Portraits refused by the Parties, commissioned at 1,300 Rupees, valued at Half Price	-	-	650 0 0
Pictures nearly finished on account of Jeejeebhoy Dadabhoy	-	-	500 0 0
Painting Materials used in the Possession of the said Frederick Christian Lewis as an Artist, some Sketch Books, and a few other Books	-	-	200 0 0
Wearing Apparel and Bedding, Travelling Trunks, and Camp Cases	-	-	500 0 0
All the before-mentioned Effects are in the Possession of the said Frederick Christian Lewis in the Gaol.			
A Gold Watch, in the Hands of Mr. Barron's Assignee, left with Mr. Barron to be repaired	-	-	300 0 0
			<u>2,150 0 0</u>

(Signed) FRED<sup>k</sup> C. LEWIS.

In the Court for the Relief of Insolvent Debtors, Bombay.

(373.)

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth.

In the Matter of the Petition of Frederick Christian Lewis, an Insolvent.

Upon Motion of Mr. Campbell, being of Counsel for the said Insolvent, and upon reading the Certificate of the Chief Clerk of this Honourable Court, dated the Sixteenth Day of August instant, and the Affidavit of Eduljee Bomanjee, a Clerk in the Service of Acton Smee Ayrton, Gentleman, Attorney for the said Insolvent, sworn to on this Day, it is Ordered, That the First Monday in the Month of September next be and it is hereby appointed for hearing the Matters of the said Insolvent's Petition, and that the Marshal of the Bombay Gaol do, upon the said First Monday in September next, bring up the Body of the said Insolvent to the Court House, to be then and there examined touching the Matters of his said Petition; and it is further Ordered, That the said Insolvent's Schedule be amended by stating that Messieurs Remington and Company hold the Bill of Exchange in the Schedule mentioned to be held by them as Agents for Captain Hennell, also therein mentioned. Witness Sir John Wither Awdry, Knight, Chief Justice at Bombay aforesaid, this Nineteenth Day of August One thousand eight hundred and thirty-nine.

(Signed) J. P. LARKINS,  
Chief Clerk.

(Seal.)

(Signed) J. P. LARKINS, Sealer,  
the 22d Day of August 1839.

Insolvent

Insolvent Debtors Court.

In the Matter of the Petition of Frederick Christian Lewis, an Insolvent.

To J. P. Larkins, Esquire, Chief Clerk.

Sir,

We hereby give you Notice that Mr. J. P. Larkins, the detaining Creditor of the above-named Insolvent, intends to oppose the Discharge of the said Insolvent. Dated this 28th Day of August 1839.

Yours, &c.

(Signed) PATCH and BAINBRIDGE,  
Attornies for Mr. J. P. Larkins.

Insolvent Debtors Court.

In the Matter of the Petition of Frederick Christian Lewis, an Insolvent.

To Mr. Acton Smee Ayrton, Attorney for Insolvent.

Sir,

Take Notice that Messrs. Patch and Bainbridge, Attornies for Mr. John Pascal Larkins, the detaining Creditor of the above-named Insolvent, have this Day given me Notice of their Intention to oppose, on his Behalf, the said Insolvent's Discharge. Dated this 28th Day of August 1839.

Yours, &c.

(Signed) J. P. LARKINS,  
Chief Clerk.

Insolvent Debtors Court.

In the Matter of the Petition of Frederick Christian Lewis.

Bombay } John Pascal Larkins, the detaining Creditor of the above-  
to wit. } named Insolvent, puts in his Place and Stead Charles Hardy  
Bainbridge, Gentleman, his Attorney, to oppose the Application of the  
said Insolvent for Relief under the Insolvent Debtors Act. Dated  
this Twenty-seventh Day of August One thousand eight hundred and  
thirty-nine.

(Signed) J. P. LARKINS.

Witness.

(Signed) SADAMUND SUNKERJEE, P.

A.

D<sup>r</sup> - FREDERICK CHRISTIAN LEWIS in account with JOHN PASCAL LARKINS - C<sup>r</sup>.

To Amount of Damages ordered to be paid by the Insolvent in an Action instituted by me against him on the Plea Side of the Supreme Court - - - } R <sup>s</sup> . 2,000 Amount of taxed Bill of Costs be- tween a Party and Party - - } 2,080 Rupees - 4,080	Balance due - - - R <sup>s</sup> . 4,080  Rupees - 4,080	Rupees - 4,080
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Insolvent

## Insolvent Debtors Court.

In the Matter of the Petition of Frederick Christian Lewis, an Insolvent.

John Pascal Larkins of Bombay, Gentleman, one of the Attornies of the Supreme Court of Judicature at Bombay, maketh Oath and saith, That Frederick Christian Lewis, the above-named Insolvent, is justly and truly indebted unto him, this Deponent, in the Sum of Rupees Four thousand and eighty, being the Amount, Damages and Costs, of a certain Action that was commenced by this Deponent against the said Frederick Christian Lewis on the Plea Side of the Supreme Court of Judicature at Bombay, and that the Paper Writing hereunto annexed marked with the Letter A. contains a full and true Account and Particular of the Debt due to this Deponent.

(Signed) J. P. LARKINS.

Sworn at Bombay aforesaid, the }  
30th Day of August 1839, }  
before me,

(Signed) J. L. PHILIPP,  
Examiner.

(Signed) PATCH and BAINBRIDGE.

In the Court for the Relief of Insolvent Debtors, Bombay.

(373.)

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth.

In the Matter of the Petition of Frederick Christian Lewis, an Insolvent.

The Matters of this Petition having been appointed this Day for hearing, Mr. Campbell, being of Counsel for the said Insolvent, moves that the Matter of the said Insolvent's Petition may stand over until the next Court Day ; it is ordered, That the said Motion be and it is hereby granted ; and it is further ordered, That the Marshal of the Bombay Gaol do upon the said next Court Day bring up the Body of the said Insolvent to the Court House, to be then and there examined touching the Matters of his said Petition. Witness Sir John Wither Awdry, Knight, Chief Justice at Bombay aforesaid, this Second Day of September One thousand eight hundred and thirty-nine.

(Signed) J. P. LARKINS,  
Chief Clerk.

(Seal.)

(Signed) J. P. LARKINS, Sealer,  
the 9th Day of September 1839.

In the Court for the Relief of Insolvent Debtors, Bombay.

(373.)

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth.

In the Matter of the Petition of Frederick Christian Lewis, an Insolvent.

The Matters of this Petition having been appointed this Day for a further Hearing (by Adjournment from Monday the Second Day of September

September instant), Mr. Campbell, being of Counsel for the said Insolvent, moves for the further Adjournment of the Matters of the said Insolvent's Petition until the First Monday in the Month of October next; and after reading the Order of the said Second Day of September instant, it is ordered, That the said Motion be and it is hereby granted. Witness Sir John Wither Awdry, Knight, Chief Justice at Bombay aforesaid, this Sixteenth Day of September One thousand eight hundred and thirty-nine.

(Seal.) (Signed) J. P. LARKINS,  
Chief Clerk.  
(Signed) J. P. LARKINS, Sealer,  
the 21st Day of September 1839.

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In the Court for the Relief of Insolvent Debtors, Bombay.  
(373.)

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth.

In the Matter of the Petition of Frederick Christian Lewis, an Insolvent.

The Matters of this Petition having been appointed this Day for a further Hearing (by Adjournment from Monday the Sixteenth Day of September last), Mr. Campbell, being of Counsel for the said Insolvent, moves for the further Adjournment of the Matters of the said Insolvent's Petition until the next Court Day, which will be on the First Day of October instant; and after reading the Order made in this Matter on the said Sixteenth Day of September last, it is ordered, That the said Motion be and it is hereby granted. Witness Sir John Wither Awdry, Knight, Chief Justice at Bombay aforesaid, this Seventh Day of October One thousand eight hundred and thirty-nine.

(Seal.) (Signed) J. P. LARKINS,  
Chief Clerk.  
(Signed) J. P. LARKINS, Sealer,  
the 11th Day of October 1839.

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In the Court for the Relief of Insolvent Debtors, Bombay.  
(373.)

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth.

In the Matter of the Petition of Frederick Christian Lewis, an Insolvent.

The Matters of this Petition having been called on for a further Hearing, Mr. Campbell, being of Counsel for the said Insolvent, applies that he may be sworn to the Truth of his Schedule, and be adjudged entitled to the Benefit of the Act of Parliament made and passed for the Relief of Insolvent Debtors in the East Indies; and on reading an Order made in this Matter on the Seventh Day of October instant,  
(8.) whereby

whereby the Hearing of the Matter of the said Insolvent's Petition was adjourned until this Day; whereupon, and on hearing Mr. Advocate General on behalf of the detaining Creditor, and after swearing the said Insolvent to the Truth of his Schedule, this Court doth order and adjudge, That the said Insolvent shall be and he is hereby discharged from Custody, and declared entitled to the Benefit of the Act for the Relief of Insolvent Debtors in the East Indies, the said Insolvent having been in Custody at the Suit of the said detaining Creditor (as to whose Debt his Discharge was adjudicated) for the Period of Seventy-seven Days from the Fifth Day of August last, being the Day on which the said Insolvent filed his Petition in this Honourable Court, praying for the Benefit of the said Act, and which has this Day expired; and it is further Ordered, That the Costs of the said detaining Creditor in the above Matter be paid out of the first Assets that may come to the Hands of the Common Assignee belonging to the said Insolvent's Estate. Witness Sir John Wither Awdry, Knight, Chief Justice at Bombay aforesaid, this Twenty-first Day of October One thousand eight hundred and thirty-nine.

(Signed) J. P. LARKINS,  
Chief Clerk.

(Seal.)

(Signed) J. P. LARKINS, Sealer,  
the 25th Day of October 1839.

I hereby certify, That this and the Five foregoing Sides have been carefully examined by me with the Originals, and that they are true Copies of such Originals.

O. W. KETTERER,  
Acting Chief Clerk in the above Matter.  
Clerk to the Hon. the Chief Justice.

Bombay,  
the 27th of November 1840.

(Seal.)

# MINUTES OF EVIDENCE

TAKEN UPON THE

SECOND READING OF THE BILL,

INTITULED

“ AN ACT to DISSOLVE the Marriage of NATHANIEL BOGLE FRENCH  
“ SHAWE Esquire with CHARLOTTE SHAWE his now Wife, and  
“ to enable him to marry again ; and for other Purposes therein  
“ mentioned.”

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Ordered to be printed 23d March 1841.

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(50.)



*Die Lunæ, 22<sup>o</sup> Martii 1841.*

**T**HE Order of the Day being read for the Second Reading of the Bill, intituled " An Act to dissolve the Marriage of Nathaniel Bogle French Shawe, Esquire, with Charlotte Shawe his now Wife, and to enable " him to marry again ; and for other Purposes therein mentioned ;" and for hearing Counsel for and against the same ; and for the Lords to be summoned ;

Evidence on  
Shawe's Divorce  
Bill.

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Counsel were accordingly called in :

And the Honourable J. C. Talbot appearing as Counsel on behalf of the Petitioner ;

And Mr. James appearing as Counsel on behalf of Mrs. Shawe ;

Mr. Talbot was heard to open the Allegations of the Bill.

Then Mr. CHARLES MORGAN was called in ; and having been sworn, was examined as follows :

*Mr. C. Morgan.*

---

1. (*By Mr. Talbot.*) You are a Solicitor?  
I am.
2. Residing in Bedford Row ?  
Yes.
3. Have you been employed on the Part of Captain Shawe professionally ?  
I have.
4. In conjunction, I believe, with a Gentleman of the Name of Gregson ?  
Yes.
5. Did you at any Time serve a Copy of the Bill now before their Lordships upon Mrs. Shawe ?  
I did.
6. When ?  
On the 15th of March.
7. Were you previously acquainted with Mrs. Shawe's Person ?  
I was.
8. Did she make any Remark at the Time you served her ?  
She merely said that she understood the Second Reading was to be on Monday the 22d.
9. She understood the Purport of the Service ?  
She did.
10. Did you at the same Time serve her with a Copy of the Order for the Second Reading ?  
I did.

(50.)

A 2

11. I believe



Mr. C. Morgan.

11. I believe you are the Gentleman who also inspected the Register of Marriages at St. Peter's, Walworth?

I did.

12. Do you produce an examined Copy of the Register?

I do. (*The Witness produced the same.*)

13. Did you examine this yourself with the Register?

I did.

The same was read as follows :

“Marriages solemnized in the Parish of Saint Mary Newington in the County of Surrey, at Saint Peter's Church, Walworth, in the Year 1828.

“Nathaniel Bogle French Shawe of this Parish, Bachelor, and Charlotte Munden of this Parish, Spinster, were married in this Church by Licence, with Consent of this Twenty-third Day of December in the Year One thousand eight hundred and twenty-eight,

“ By me,  
CHARLES BRISTOW DROUGHT.

“ This Marriage was solemnized between us, - - - { N. B. F. SHAWE,  
CHARLOTTE MUNDEN.  
“ In the Presence of - - - { THOMAS PARKER,  
AMELIA PIPER.”

The Witness was directed to withdraw.

Mrs. A. S. Piper.

Then Mrs. AMELIA SOPHIA PIPER was called in; and having been sworn, was examined as follows :

14. (*By Mr. Talbot.*) You are a Widow, I believe?  
I am.

15. Do you know Mrs. Shawe?  
Yes; she is my Niece.

16. Do you remember her Marriage to Captain Shawe?  
I do.

17. He was then Lieutenant Shawe, I believe?  
He was.

18. Were you present at the Marriage?  
I was.

19. Where did it take place?  
At Walworth, at Saint Peter's Church.

20. Do you remember the Date?  
It was in December 1828.

21. Do you know what became of Mr. and Mrs. Shawe after their Marriage?

No, I do not, exactly; they came after their Marriage to my House, then they went away to some Apartments they had provided for themselves.

22. When did you see them after that again?

I did not see them for a Length of Time again; I cannot recollect the Time exactly; upwards of a Year.

23. Did

23. Did you see them at your House afterwards, at the End of the Year? *Mrs. A. S. Piper.*

Yes; at my Lodgings.

24. Upon what Terms did they appear to be living then?

Very comfortable; they seemed to live happily; they seemed attached to each other.

25. Captain Shawe, I believe, was with his Regiment, was he not?

Yes; he went to Ireland.

26. When did you next see them again?

I cannot call to my Recollection when I saw them again.

27. Do you remember their living at Notting Hill?

Yes.

28. That was after they had been to Russia, was not it?

It was.

29. Did you see them shortly before they went to Russia?

Yes.

30. How were they living then?

As usual; I never saw any thing but what was comfortable. She was living at Notting Hill.

31. Do you remember when they lived at Notting Hill?

Yes.

32. Do you remember the Birth of a Child there?

Yes; I was present.

33. A Son?

Yes.

34. Had you Opportunities at that Time of observing the Terms on which Captain Shawe and Mrs. Shawe lived together?

Yes, I had.

35. Did you see any thing to alter your first Opinion?

No; but Captain Shawe absented himself for a Time, for about a Month or Six Weeks, after the Birth of the Child.

36. Do you remember their going to Scotland to live?

Oh yes; they went to Scotland from Notting Hill.

37. Did you correspond with Mrs. Shawe?

Yes.

38. Did you receive Letters from her constantly?

Yes.

39. On their Return from Scotland did you see them?

Oh yes.

40. When was that?

That was in 1839 or 1840; Two Years ago, nearly.

41. In the latter Part of 1839 or 1838?

Of 1839, I think, or 1838; I forget which.

42. Perhaps I can bring it to your Mind in this Way; do you recollect hearing of a Deed of Separation?

No, I did not; I never heard of such a Thing.

43. However, the first Time you saw them together, had their Mode of living with one another, to your Judgment, changed?

No; I did not see any thing, until some Difference took place, that they separated.

(50.)

B

44. How

*Mrs. A. S. Piper.*

---

44. How soon was that after their Return from Scotland?  
About Six Months, I should think.
45. Did you see them at their own House then?  
No; not at their own House.
46. Where was it?  
At Windmill Row.
47. At Windmill Cottage near Brentford?  
Yes.
48. Mrs. Trimmer's Cottage?  
Yes.
49. Did you see them there once, or more than once?  
I resided with her there for several Weeks.

Cross-examined by Mr. James.

50. What Age was Mrs. Shawe when she married?  
I cannot exactly recollect what Age she was.
51. About what Age did she appear to be?  
About Twenty or Twenty-one; Twenty-one, I think.
52. Had she been living with you before she married Captain Shawe?  
Oh yes.
53. Where was it that Captain Shawe paid his Addresses to her before the Marriage?  
They were acquainted with each other before I knew them at all. I did not know Captain Shawe long previous to their Marriage, and it was not at my House that he saw her. He did not visit at my House.
54. Had your Niece been living under your Roof before her Marriage?  
Yes, she had, for a short Time.
55. Where had she been for the Twelve Months preceding? Had she not been living with Mr. Shawe?  
Not that I am aware of.
56. Where had she been living?  
At Turnham Green, I think.
57. In a Cottage of her own?  
No; in Apartments.
58. Had she any Parents at all at that Time?  
No; her Parents were both dead.
59. Had you seen her in her Cottage at Turnham Green?  
Yes, sometimes; not very often.
60. Was she keeping a Cottage there herself?  
No; she was in Apartments; in Lodgings there. The Cottage was not her own.
61. Had she any Income?  
She had a small Income.
62. Do you know from whence that was derived; how she got it?  
She got it, I believe, from the Duke of Brunswick; I think so.
63. Was that before Captain Shawe married her?  
Oh yes, long before.

64. Was

( 7 )

64. Was she in Receipt of the Income at the Time she married?  
I really do not know.

*Mrs. A. S. Piper.*

65. How long before her Marriage did she quit Turnham Green and come to you?

A Month or Two before her Marriage.

66. Did they live after their Marriage at the Cottage, or the Apartments in Turnham Green?

No, I do not think they did; I believe they lived in Town.

67. Had they not been living together for some Time before the Marriage?

That is quite unknown to me.

68. Do you not know that?

No, I do not know that.

69. After the Marriage did the present Mrs. Shawe assume Captain Shawe's Name, or what Name did she pass under?

Mrs. Shawe, of course, after her Marriage.

70. Do you not know that with Captain Shawe's Knowledge she did not pass under that Name, even after the Marriage?

Oh, she always did.

71. After the Marriage?

Yes; I always styled her Mrs. Shawe, and she always styled herself Mrs. Shawe. I saw her married, and knew that she was entitled to the Name.

72. When you had seen her living in Turnham Green did his Grace the Duke of Brunswick visit her there, from whom she derived this Income?

No.

73. How did she get this Income from the Duke of Brunswick?

I do not know; I knew very little of her.

74. Had she any other Means than those derived from the Duke of Brunswick?

No; only what she got from me; I assisted her.

75. What was her Father?

Her Father was a Captain in the Army.

76. She had no Income but what she derived from you?

No.

77. Was that which she received from you given her from Benevolence?

Yes; she was my Relation:

78. She had no Claim upon you?

No.

79. When did you first hear that she derived this Income from the Duke of Brunswick?

I cannot tell.

80. Did you hear that mentioned in the Presence of Captain Shawe, at the Time he was visiting at your House, before the Marriage?

No; Captain Shawe did not visit at my House before the Marriage.

81. Had he paid his Addresses to her at all at Turnham Green?

I believe so.

(50.)

82. Did

Mrs. A. S. Piper.

82. Did they live in your House at all after the Marriage?  
No, they did not.
83. Where did they first live?  
They went to live in Town the Day they were married.
84. Do you know at all whether there was any Bond from the Duke of Brunswick by which this Annuity was payable?  
I do not know, indeed; she never consulted me.
85. Do you remember the Fact of this Income being mentioned in Captain Shawe's Presence?  
No.
86. The Fact of your Niece receiving the Income?  
No.
87. About a Year after their Marriage did they live separate for some Time?  
Not by Consent. Captain Shawe was not altogether so very attentive; he absented himself very frequently.
88. When was it that Captain Shawe first began to absent himself from his Wife?  
I cannot tell. I cannot tell whether it was from Business, or his Regiment, or what. He used to come occasionally.
89. What do you mean by Captain Shawe not being so attentive?  
I do not think he was when he used to stop away a Fortnight or Three Weeks.
90. When did you first observe this Inattention to commence?  
I cannot tell.
91. They were married in December 1828. When was it you first noticed the Captain's Inattention to her?  
I cannot say that I noticed it as Inattention, but that he was absent very frequently. I concluded there was some Business which caused his Absence.
92. Do you know whether he introduced her at all into Society?  
He did not.
93. Not anywhere, I believe?  
No; that I am certain of.
94. While he was absent from Town, where did she reside, after the Marriage?  
In Apartments in different Places in London.
95. Under what Name was she passing?  
The Name of Shawe.
96. Was she ever taken by him at all into the Society that he went into?  
Never to my Knowledge.
97. You know, I believe, that she was not; that he evaded taking her at all into Society?  
He never took her, to my Knowledge.
98. Do you recollect his being absent from her for nearly a whole Year, in about the Year 1829 or 1830?  
No, I do not.
99. Was

( 9 )

99. Was he absent for so long a Period as Six Months at one Time? Mrs. A. S. Piper.

I really cannot tell; I never observed it; I was not very often with them.

100. Was she ever under your Roof after her Marriage?

No, not at any Time; she resided with Captain Shawe, I believe, after her Marriage, for any thing I know.

101. In how many Places in London did she live when Captain Shawe was away?

Really I do not know.

102. Have you seen her in different Places of Abode, in Captain Shawe's Absence?

No; in One or Two, I believe.

103. Do you know whether the Captain provided her with any Means while he was absent?

No; I know nothing about her Means of living. I suppose he might support her; I do not know.

104. Were not Complaints made that he did not furnish any Means at all for her Support during his Absence; did you ever hear that complained of in Captain Shawe's Presence?

No, never.

105. Do you know of Captain Shawe having applied to her for Money?

No, I do not.

106. Do you know Captain Shawe's Handwriting?

Yes, I believe I do; but it is so long since I have seen it I can scarcely say.

107. Have the goodness to look at this Letter? (*A Letter being shown to the Witness.*)

I think this appears to be his Writing.

108. Just look over the whole of those Letters? (*Several Letters being shown to the Witness.*)

I think this is his Writing too. I will put on my Glasses, if you please, and look at them. (*The Witness put on her Glasses, and looked over the Letters.*) That is his, and that too, and that too; they are all his.

109. Look at those also?

These are his too; all his Handwriting.

[The Ten Letters spoken to by the Witness were delivered in.]

110. Recollect yourself; do not you know that after the Marriage she passed by the Name of Miss Scott?

No, I do not know that; I do not think she ever did.

111. Are those Letters addressed to Miss Scott in Captain Shawe's Handwriting?

Oh yes; Captain Shawe constantly directed his Letters for her to Miss Scott, who was then residing with us, and likewise to myself.

112. Was there such a Person as Miss Scott?

Yes, there was.

113. Who was she? Was not this addressed to Mrs. Shawe as Miss Scott?

No; that is Captain Shawe's private Mark.

(50.)

C

114. Was

Mrs. A. S. Piper.

114. Was she residing with you at the Time she was receiving these Letters from Captain Shawe?

Miss Scott was residing with Mrs. Shawe.

115. Is Miss Scott in London now?

I do not think she is.

116. Where is she?

I do not know.

117. What was she?

She was boarding there.

118. Was not this Lady called by Captain Shawe Miss Piper sometimes?

No.

119. Are you Mrs. Piper or Miss Piper?

Mrs. Piper.

120. Did you never know her addressed by Captain Shawe in Letters as Miss Piper?

No; for he always addressed them to me as Mrs. Piper.

121. I believe after the Marriage Mrs. Shawe went to Russia alone, did she not?

I believe she did.

122. Have you any Doubt about that?

He went there after her, I think, to bring her back.

123. Had she gone to Russia alone?

She did not leave the Country, I believe, alone.

124. Did Captain Shawe go with her?

Part of the Way, I believe.

125. At that Time do you know whether she was in London in Distress, or not?

No; I do not know that she was.

126. Did you ever see any Supplies of Money sent from Captain Shawe to her?

No; I was not in her Confidence.

127. How long was she in Russia before Captain Shawe went to her?

I believe during the Winter; he went out in the Spring to bring her back again.

128. Do not you know that before she went to Russia she was in considerable Distress in London?

No, I believe not.

129. Did she not at any Time make Applications to you for Money?

No, never.

130. Where was she living immediately before she went to Russia?

She was lodging in Manchester Square; Manchester Street or Square.

131. Who went with her to Russia?

I really do not know any one that went.

132. Had she any Relatives or Friends in Russia?

Yes; her Sister was there; she went to see her.

133. Have

( 11 )

133. Have you ever seen any of Captain Shawe's Friends with her, *Mrs. A. S. Piper.*  
or known of her being introduced to them?

I have seen Mr. Saunders, and that is all.

134. That was very lately, was not it?

At Notting Hill.

135. When were they living at Notting Hill?

When they went to Scotland; I forget what Year it was. They went to Scotland after the Birth of the Child.

136. Where was the Child born?

At Notting Hill.

137. I must ask you this Question, with the Permission of my Lords; do you know of the Duke of Brunswick visiting her at all after the Marriage?

I do not; I never knew of any Person visiting her.

138. Did you ever see him with her after that Time?

Never.

139. Had you ever seen her with him before the Marriage?

No, never.

Re-examined by Mr. Talbot.

140. You say he paid his Addresses to her at your House?

No; shortly before they were married he came to my House.

141. Was that for the Purpose of seeing Mrs. Shawe?

Yes.

142. She was then living with you?

Yes; before her Marriage she was lodging with me.

143. How many Times did you see him at your House?

Several.

144. You say you have occasionally supplied her with Money yourself?

Yes; when she has asked me for Money she has had it.

145. Then those were Presents from yourself?

Yes.

146. Have they been to any considerable Amount?

No.

147. Do you know that Captain Shawe was attached to a Regiment at this Time?

Yes, I believe he was; to the 17th Lancers.

148. Do you know that he attended to the Duties of his Regiment?

Yes.

149. In those occasional Absences have you Reason to suppose that he went to his Regiment?

No, I do not know.

150. Letters have been put into your Hands addressed to Miss Scott; I understood you to say that they bear Mr. Shawe's private Mark?

They do.

151. Do you know from Mrs. Shawe that there was any private Arrangement between them that Letters with that private Mark should be opened by herself?

No. They were always opened by herself; we never opened them.

(50.)

152. Miss



Mrs. A. S. Piper.

152. Miss Scott was a young Lady an Acquaintance of Mrs. Shawe?  
Yes.
153. Did she live with you?  
With Mrs. Shawe and myself.
154. Who is Mrs. Shawe's Sister in Russia; is she a married Lady?  
Yes; Mrs. Maclaren.
155. Do you know that when Captain Shawe went Part of the Way with her, and afterwards followed her, he was negotiating the Sale of his Commission?  
No.
156. Do you know that he had Business to transact which detained him?  
No.
157. Your Recollection is that he went with her Part of the Way?  
Yes; but I do not know how far.
158. He brought her back?  
Yes.
159. Was it after that they lived at Notting Hill?  
Yes; and before the Child was born.
160. When they lived at Notting Hill they lived then, you said, on Terms of Harmony together?  
Oh yes.

The Witness was directed to withdraw.

The Counsel were directed to withdraw.

Ordered, That the further Consideration and Second Reading of the said Bill be put off till To-morrow at Two o'Clock; and that the Lords be summoned.

*Die Martis, 23<sup>o</sup> Martii 1841.*

THE Order of the Day being read for the further Consideration and Second Reading of the Bill, intituled "An Act to dissolve the Marriage of Nathaniel Bogle French Shawe, Esquire, with Charlotte Shawe his now Wife, and to enable him to marry again; and for other Purposes therein mentioned;" and for hearing Counsel for and against the same; and for the Lords to be summoned;

Evidence on  
Shawe's Divorce  
Bill.

---

Counsel were accordingly called in :

Then the Reverend CHARLES SAUNDERS was called in; and having been sworn, was examined as follows : Rev. C. Saunders.

---

161. (*By Mr. Talbot.*) I believe you married the Mother of Captain Shawe?

I did.

162. How long is that ago?

Two or Three and Twenty Years ago.

163. Anterior to the Year 1828?

Yes.

164. Are you aware now that a Marriage was contracted by Captain Shawe in 1828 with Miss Munden?

I am aware of it.

165. When did you first become aware of it?

About November 1835.

166. Between 1828 and 1835 I understand you to say that you had no Knowledge of it?

Not the least.

167. How did you first become acquainted with it?

By a Letter I received from Mrs. Shawe.

168. Are you aware that Mrs. Shawe first, and subsequently Captain Shawe, went to St. Petersburg after that Time?

I am aware of it.

169. Did you between the Year 1835 and 1839 contribute from your own private Resources to the Support of Captain and Mrs. Shawe?

I did.

170. Did you happen to send Money to Mrs. Shawe?

I did.

171. Once or repeatedly?

I do not know whether it was once or more than once; I think more than once.

172. Were you at any Time called upon, or did you feel yourself called upon, to go into the Matter of certain pecuniary Embarrassments said to attach to Mrs. Shawe?

I considered it my Duty, as the Stepfather of Mr. Shawe, to do so.

(50.)

D

173. At

*Rev. C. Saunders.*

173. At what Time was this ?

About January 1839.

174. Were Bills sent in to you, or what Steps did you take to ascertain the Amount ?

The Bills were sent into Devonshire to me ; I opened them, and found that they were Bills contracted by both Mr. and Mrs. Shawe.

175. Were there Bills, amongst others, for Millinery ?

Yes.

176. Articles supplied to Females ?

Yes, to a large Amount.

177. Upon receiving those Bills did you communicate with Captain Shawe ?

I did.

178. Were there any Bills amongst those which particularly attracted your Attention ?

Yes ; One in particular.

179. What was that ?

(*By Mr. James.*) Was that Bill given by you to Captain Shawe ?

No, it was not.

180. In whose Possession did you last see that Bill ?

I saw it, I think, in the Possession of my Solicitor, Mr. Gregson.

181. Is he also Captain Shawe's Solicitor ?

He is.

182. Has he that Bill now ?

To the best of my Knowledge, he has.

183. When did you see it last ?

I cannot say when I saw it last.

184. During the Progress of this Inquiry ?

No ; long before that.

185. Had Mr. Gregson the Bill in his Custody, with other Papers of Captain Shawe's ?

He had.

Mr. James submitted, That the Bill itself should be produced.

Mr. Talbot stated, That not being able to produce the Bill he would waive the Question which he had intended to ask.

186. (*By Mr. Talbot.*) Have you any Reason to know, from what passed upon that Occasion, whether, up to the Time of the Investigation of those Bills, any Cause of Difference or Suspicion had existed between Captain Shawe and his Wife ?

There was Suspicion attached at the Time the Millinery Bill was brought in.

187. For the first Time ?

For the first Time.

188. What was Captain Shawe's Conduct to the Time that this Matter was discovered or this Suspicion engendered ?

I consider that he was one of the most affectionate of Husbands.

189. What was the Effect produced upon him by these Discoveries thus tending to Suspicion ?

For Five Minutes he could hardly speak.

190. Did

( 15 )

190. Did he appear to you to be grievously affected ?

Very much indeed.

Rev. C. Saunders.

191. Were those Demands of recent Date, or where they of some standing ?

Of some standing.

192. Were any of them contracted previous to the Voyage to Saint Petersburg ?

Yes.

193. I believe you took professional Advice upon that Subject ?

I did.

194. Both with respect to the Bills, and also as to the Sufficiency of any Proof you might possess with regard to Proceedings in the Ecclesiastical Court ?

I did.

195. Were you a Party to the Deed of Separation ?

I was.

196. Did you counsel it ?

Yes.

197. At the Time that the Marriage was disclosed to you in 1835, was it also disclosed to Mrs. Saunders, to your Knowledge ?

A few Days afterwards, I disclosed it to her myself.

198. After the Marriage was disclosed did Mrs. Saunders visit Mrs. Shawe ?

She did, after they returned from Saint Petersburg:

199. Have you Reason to know, from any thing that has passed between yourself and Mrs. Shawe at any Time, that Promises of Economy have been violated by her ?

She promised Economy.

200. Was that previous to this Investigation ?

Yes, it was.

Cross-examined by Mr. James.

201. I believe Captain Shawe's Income at that Time was limited ?

It was.

202. Was it merely the Pay which he derived from his Regiment at that Time ?

He had private Resources at that Time of his own.

203. Not to any great Extent ?

Far from it.

204. At the Time that Mrs. Saunders visited Mrs. Shawe were they living in a Manner compatible with their Income ?

Yes, with my Assistance.

The Witness was directed to withdraw.

Then CAROLINE RAINS was called in ; and having been sworn, was examined as follows :

Caroline Rains.

205. (*By Mr. Talbot.*) I believe you are now living as Servant in a Family at Fulham ?

Yes.

(50.)

206. In

Caroline Rains.

206. In the Year 1839 had you a Sister named Sarah?  
Yes.
207. Was she Servant to a Lady of the Name of Shawe?  
Yes, she was.
208. Living at Bexley Heath?  
She was.
209. Upon the Occasion of Mrs. Shawe leaving Home did you go to reside as an Inmate in that House with your Sister?  
Yes.
210. I believe in consequence of Illness you stayed there for some Months?  
I did.
211. Did Mrs. Shawe return before you left?  
Yes.
212. Can you tell me the Year and the Month?  
Mrs. Shawe stayed, I believe, a Fortnight.
213. You were only there a Fortnight before she returned?  
Yes.
214. Was that in the Year 1839?  
Yes.
215. What Part of the Year?  
I believe it was in the latter End of October.
216. Whose was this House at Bexley Heath; who appeared to be Mistress of it?  
Mrs. Shawe.
217. Did she occasionally receive Relations of her own there?  
She had an Aunt.
218. Was that a Lady of the Name of Piper?  
Yes.
219. Was there also a Nephew of the Name of Mullins who used to come and stay there?  
There was a young Gentleman of the Name of Mullins, but I did not understand it was her Nephew.
220. Do you know a Person of the Name of Prescott?  
Yes.
221. Did you ever see Mr. Prescott there?  
Yes.
222. How soon after you first went?  
I believe it was just before Christmas when he came first; Mrs. Shawe was at Brighton when he first came.
223. Did he repeat his Visit afterwards?  
Yes.
224. Do you remember his coming more than once?  
Yes.
225. What Time did he spend with Mrs. Shawe when he came?  
I cannot say exactly.
226. Did he come to dine, or to spend the Evening, or what?  
I believe he did dine there once.
227. Do you ever remember his sleeping there?  
He did once.

( 17 )

228. Was Mrs. Shawe in the habit of leaving Home for a Day occasionally? Caroline Rains.

Yes.

229. How did she leave Home upon those Occasions; had she a Carriage of her own?

No; sometimes she had a Fly, and sometimes she went by the Coach.

230. What Coach?

Different Coaches; sometimes by the Commodore.

231. Does that run to London?

Yes, at Twelve o'Clock.

232. Does that pass by Greenwich?

I do not know which Way it runs.

233. Did you ever hear Mrs. Shawe give Directions to the Flyman where to take her?

No; she generally went to the Railroad when she went by the Fly.

234. That is, the Greenwich Railroad?

Yes.

Cross-examined by Mr. James:

235. There was nothing which struck you as very unusual in a Lady living at Bexley Heath going by the Railroad to Town or by the Commodore?

No.

236. (*Mr. Talbot.*) Do you know Mrs. Shawe's Handwriting?

No, I do not.

237. Did you ever receive Letters from her to be put into the Post?

Yes.

238. Did you ever read the Address of those Letters?

No.

239. (*Mr James.*) When did you first go into her Service?

I do not know exactly the Day.

240. As nearly as you can recollect?

The latter End of October.

241. In what Year?

1839.

242. For how long a Time were you there?

Eight Months; I left at Midsummer.

243. You took the Situation that your Sister had had?

Yes, I did.

244. Where is your Sister living now?

She is at home now.

245. Where?

In Regent Street.

246. Is she in Service?

No; she is at home.

247. At her Place of Abode?

Yes.

248. Is she here?

No.

The Witness was directed to withdraw.

(50.)

E

Then

Mary Bradley. Then MARY BRADLEY was called in ; and having been sworn, was examined as follows :

249. (*By Mr. Talbot.*) Where are you living now ?  
I am at home at present with my Mother.
250. She lives at Greenwich, I believe ?  
Yes.
251. In the Year 1838 were you in the Service of Mr. Gardiner at Greenwich ?  
Yes.
252. Does he keep the Greyhound Inn ?  
Yes.
253. Were you so in the Month of December 1838 ?  
Yes.
254. And from that Time down to what Time ?  
To the 15th of July.
255. In what Year ?  
In 1840.
256. Do you know Mrs. Shawe's Person ?  
Yes.
257. Did you ever see Mrs. Shawe at the Greyhound ?  
Yes.
258. Once, or more than once ?  
Three Times.
259. When was the first Time about ?  
As nearly as I can say, about the Middle of January.
260. In what Year ?  
In 1840.
261. Did she come alone ?  
No.
262. Who accompanied her ?  
A Gentleman.
263. Do you know who that Gentleman is ?  
I know him well.
264. What is his Name ?  
Mr. Prescott.
265. At that Time you did not know him ?  
No.
266. How did they come ?  
I do not know how they came.
267. You do not know whether they came on Foot or how ?  
No.
268. You were Chambermaid at that Time ?  
Yes.
269. Were your Services required upon their coming into the House ?  
After they had got up Stairs.
270. What were you wanted for ?  
To attend the Lady in the Bed-room.

271. Did

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271. Did you receive Orders to prepare for the Night ?

Yes.

Mary Bradley.

272. Was there more than One Bed ordered ?

Only One.

273. Did the Lady borrow any-thing of you ?

Yes.

274. What was it ?

A Night Dress and Night Cap.

275. When did you next see them ?

The next Morning.

276. Was it your Duty to make the Bed next Morning ?

Yes.

277. Did it appear to you whether One or Two Persons had slept in it ?

It appeared to me as if Two Persons had slept in it.

278. Have you any Doubt about it ?

I have every Reason to believe that they both slept in it.

279. How was this Bed-room situated in respect to the Sitting Room ?

Close by the Sitting Room.

280. Was it approached by any Door from the Passage, or only out of the Sitting Room ?

Through the Sitting Room.

281. Who occupied that Sitting Room ?

The same Lady and Gentleman.

282. How soon after that did they come again ?

In the same Week.

283. What happened upon that Occasion ; did they occupy the same Rooms ?

The same Rooms.

284. Did you prepare the Bed again for them ?

Yes.

285. And make it the next Day ?

Yes.

286. Did the same Appearances present themselves again ?

The same as before.

287. Did you at any Time, upon any of those Occasions, see Mr. Prescott in the Bed-room ?

In the Morning I heard him in the Room, when I went to call him.

288. You knocked at the Door, did you ?

Yes.

289. Who answered you ?

Mr. Prescott.

290. Was your Night Dress borrowed upon that Occasion too ?

Yes.

291. When did they come again ?

In the following Week.

(50.)

292. Was



Mary Bradley.

292. Was there any Difference upon that Occasion, or the same as before ?

No ; the same as before.

293. Were the same Rooms occupied ?

Yes.

Cross-examined by Mr. James.

294. Was any Name given ?

Not any Name.

295. Not upon either of the Occasions ?

No.

296. You did not make out any Account or Bill of Charge to any Name ?

Not to any Name.

297. When did you subsequently discover who the Parties were ?  
In the Month of June.

298. June 1840 ?

Yes.

299. This occurred in January ?

Yes.

300. Were they there again in June 1840 ?

The Gentleman came.

301. You identify that Gentleman as being the Person who had been there ?

Yes.

302. Had you seen him lately before that at all ?

Not since January.

303. You had not seen her between the January and June ?

No.

304. Had you seen her at all before the January ?

No.

305. She was quite a Stranger ?

Yes.

306. Did they give any Name at all ?

Not any Name.

307. I suppose that the Greyhound is resorted to as an Hotel, very much, frequently ?

Yes.

308. There are a great many Ladies and Gentlemen who sleep at Greenwich during the Year ?

Yes, a great many, at different Times.

309. Have you ever seen the Lady since to identify her, or is it Mr. Prescott only that you speak of ?

The Lady as well, I have seen.

Re-examined by Mr. Talbot.

310. At the Time you saw the Lady again did you hear her state what her Name was, or how did you know her Name ?

I knew her Name after I had seen her the Winter before.

311. What

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311. What was her Name?  
Shawe.

Mary Bradley.

312. (*By Mr. James.*) Did she tell you her Name, or did you hear her called that Name by any one else in her Presence?  
I heard her called that Name.

The Witness was directed to withdraw.

Then JAMES GODFREY PALMER was called in; and having been sworn, was examined as follows:

J. G. Palmer.

313. (*By Mr. Talbot.*) I believe you are the Waiter at the Greyhound Hotel in Greenwich?  
Yes.

314. Do you recollect a Lady and Gentleman coming there in the Month of December 1838?  
No.

315. Do you recollect the Fact of a Lady and Gentleman coming there?  
Yes, in January.

316. A Matter about which you have been examined before?  
Yes.

317. Who received the Orders from them when they first entered the House?  
Myself.

318. What was said?  
They walked in,—the Lady and Gentleman, and requested to be shown into a private Room, which I did. They ordered Refreshments, and likewise a Bed-room for the Night.

319. Where was that Bed-room prepared?  
The Bed-room was adjoining the Sitting Room.

320. Did you wait upon them at Supper?  
I did.

321. Did you see any thing more of them that Night?  
Not after the Sitting Room was unoccupied.

322. Did you go into it?  
I did.

323. Did they go away the next Morning?  
On the next Morning.

324. How soon did they come again?  
Within a Day or Two.

325. Without taking you through what passed upon that Second Occasion, did it happen that you were in the Sitting Room after it had ceased to be occupied at Night?  
I was.

326. Did you hear Conversation going on in the Bed-room?  
I did.

327. Did you hear a Man's Voice?  
I did.

(50.)

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328. Have

J. G. Palmer.

328. Have you any Doubt that that proceeded from the Bed-room?  
I have not the least Doubt.
329. Had you sufficient Knowledge of the Gentleman's Voice, whom you had previously waited upon, to know whether it was his or not?  
I could not swear to that.
330. I believe they came a Third Time?  
They did.
331. Was the Occupation of the Rooms the same as upon the Two former Occasions?  
Precisely the same.
332. Upon One Occasion did the Lady go away without the Gentleman?  
Yes.
333. At which Time was that?  
I believe the last Time.

Cross-examined by Mr. James.

334. Is the Time you have spoken of the Time when the last Witness, Mary Bradley, was there?  
She was there during the whole Time.
335. She was there during the Time you are now speaking of?  
Yes.
336. She was in the Service of the Hotel Keeper at that Time?  
Yes.

The Witness was directed to withdraw.

Catherine Patmore. Then CATHERINE PATMORE was called in; and having been sworn, was examined as follows:

337. (*By Mr. Talbot.*) I believe you are Head Chambermaid at the Belle Sauvage Hotel, Ludgate Hill?  
Yes.
338. Were you so at the End of 1839 and the Beginning of 1840?  
Yes.
339. Do you now know a Lady of the Name of Shawe?  
Yes.
340. You know her Person?  
Yes.
341. Did you see Mrs. Shawe at the Belle Sauvage Hotel towards Christmas 1839?  
Yes.
342. By whom was she accompanied?  
A Gentleman of the Name of Prescott.
343. What Time did they come?  
In the Evening.
344. Did you receive Orders from them, or did you wait upon them in consequence of any thing that somebody else told you?  
I waited upon them, and showed the Lady to the Bed-room?
345. Is it your Duty to prepare all the Beds that are ordered?  
It is my Duty to see that they are done; not to do them.
346. Can

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346. Can any Bed-room be occupied in the House without your Catherine Patmore.  
Knowledge?

No.

347. What was the Order ; for a single Bed or a double Bed ?  
For a double Bed.

348. Was that double Bed occupied by Mrs. Shawe and Mr. Prescott ?  
We had every Reason to think it was.

349. You did not see them in the Bed ?  
No.

350. Nor was it Part of your Duty to make the Bed ?  
No.

351. Did you prepare any other Bed-room for the Gentleman ?  
Not any.

352. If there had been any other prepared must you have known it ?  
I must have known it.

353. Did you see them again after the Month of December 1839 ?  
Yes.

354. How soon ?  
I cannot recollect exactly ; but a short Time.

355. A Month ?  
A Month or Six Weeks it might have been.

356. Did they come again at the same Time of Night ?  
Yes, I believe they did ; about the same Time.

357. Was a Bed ordered upon that Occasion ?  
Yes.

358. A single or a double Bed ?  
A double Bed.

359. Have you any Reason to doubt that they occupied it that  
Night ?

We had every Reason to believe that they did.

360. Were these First and Second Times the only Times you recollect  
their coming ?

Two or Three Times to sleep ; I cannot say which.

361. Did you see them at other Times also ?  
Yes ; at different Times.

362. Did they come several Times ?  
Yes.

363. But not at Night ?  
No.

364. Do you know for what Purpose they came upon those  
Occasions ?

They merely called to take a Dinner.

365. In the Evening ?  
In the Course of the Afternoon.

366. Was that also in the Beginning of the Year 1840 ?  
I should not like to say exactly.

367. Was it about the Time you have been speaking to ?  
It was about the Time.

(50.)

368. What

Catherine Patmore.

368. What was the Name of the Waiter at the Belle Sauvage?  
Charles Godfrey.

369. Was he there then?  
Yes.

370. Was this Bed-room that was occupied contiguous to the Sitting Room?

There was a Staircase between; it was on the next Story. The Sitting Room was on the First Floor, and the Bed-room the Second.

371. Did it ever happen that any of your Things were borrowed by the Lady?

The Lady borrowed a Night Gown and Night Cap of me once.

372. Did you see the Lady with a little Boy upon One Occasion?  
Yes.

373. What Age about?  
I should say between Four and Five Years old.

Cross-examined by Mr. James.

374. Did you know them by any Name at the Time?

I knew the Gentleman's Name, but I did not know the Lady; I thought it was Mrs. Prescott.

375. Did they pass as Mr. and Mrs. Prescott?  
We had every Reason to believe that they were.

376. What Kind of Person is Mr. Prescott in Appearance?  
A very gentlemanly Man.

377. A dark Man or a fair Man?  
Rather dark.

378. Does he wear Moustaches?  
No.

379. Had you ever seen the Lady before?  
Not before she slept there.

380. Have you seen her since?  
Yes.

381. At the Hotel?

I saw her several Times at that Time, but I have not seen her since.

382. Was any Account made out to them in any particular Name?  
That I do not know.

383. That is not in your Department?  
No, it is not.

Re-examined by Mr. Talbot.

384. Have you seen Captain Shawe since?  
Yes.

385. Was it Captain Shawe who accompanied this Lady?  
No, it was not.

The Witness was directed to withdraw.

Then

Then CHARLES GODFREY was called in ; and having been sworn, Charles Godfrey.  
was examined as follows :

386. Were you Waiter at the Belle Sauvage in 1839 and 1840 ?

Yes.

387. Are you so now ?

Yes.

388. Do you know a Gentleman of the Name of Prescott by Sight ?

By Sight.

389. Do you remember his coming accompanied by a Lady to the Belle Sauvage in the latter Part of 1839 ?

I do.

390. And Part of 1840 too ?

Yes.

391. Did they come repeatedly ?

Yes ; I should say Three Times they slept there ; they came about Six Times altogether.

392. Did you at that Time know who the Lady was ?

Not the least.

393. Have you since ascertained that it was a Lady of the Name of Shawe ?

I have.

394. Did you wait upon them upon that Occasion ?

I did.

395. What Time about did they come when they slept ?

I should say about twice at the latter End of the Year 1839.

396. At what Time of the Day or Night ?

They came in the early Part of the Afternoon, to order their Dinner, and went to the Theatre, and returned in the Evening, and supped.

397. Who paid the Accounts upon those Occasions ?

The Gentleman.

398. Did you make out the Account ?

I did not ; I took it to him, and received the Money.

399. Are you able to say whether there was more than One Bed charged for ?

There was not more than One Bed charged for.

400. Were you ever sent up to the Bed-room to get any Luggage or Things ?

Once I did, to save Time ; the Gentleman got up in a great Hurry in the Morning, and wanted to go to some Steam Boat, and as it was only a Carpet Bag I ran up to fetch it myself, rather than wait for a Porter.

401. Did you see Mrs. Shawe there ?

They were both in the Sitting Room ; he asked for his Luggage.

402. What did he say ?

He said that he had only a Carpet Bag ; I then ran up to fetch it myself.

403. Was there more than One Bed in the Room ?

No more than One Bed.

(50.)

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404. Did

Charles Godfrey.

404. Did you upon any Occasion send for a Cab for them to leave the House?

Yes.

405. Was it upon One of the Occasions when they came and dined early and went away?

They came and dined and took Tea, and went away; that was when they did not sleep.

406. Did you hear the Order given where to drive to?

In the Hampstead Road, but what Street I cannot recollect.

407. Some Street in the Hampstead Road?

Yes.

The Witness was directed to withdraw.

Jane Flower.

Then JANE FLOWER was called in; and having been sworn, was examined as follows:

408. (*By Mr. Talbot.*) I believe you are the Wife of Mr. William Flower?

Yes.

409. Has he a House in Harrington Street in the Hampstead Road?

Yes.

410. In the Year 1839 did a Gentleman of the Name of Prescott lodge with you?

Yes.

411. Had he a little Boy?

Yes.

412. What Age was he?

Four Years last October.

413. I believe the Boy had no Mother living with him?

No.

414. He was under your Charge a good deal?

He was; he lived with me.

415. Do you remember, in the latter Part of the Year 1839, a Lady coming to your Lodgings?

Yes.

416. Who was that?

Mrs. Shawe.

417. I believe you have since seen Mrs. Shawe at her House at Bexley Heath?

I have.

418. It was the same Mrs. Shawe who resided there?

Yes.

419. Did she state what was the Object of her coming?

She was presented to me as the Aunt of the Child, when she first came.

420. Was Mr. Prescott at home when she first came?

Not the first Time she came.

421. Who did she inquire for?

Mr. Prescott.

422. Did

( 27 )

Jane Flower.

422. Did she request your Permission to go into the Room ?  
Yes.
423. And you gave her Permission ?  
Yes.
424. For what Purpose ?  
To write a Note.
425. Did she stay there some Time ?  
Yes, a short Time.
426. After this Time did she come there frequently with Mr. Prescott ?  
Yes.
427. Did you remain under the Impression that she was a Relation ?  
I did.
428. Do you remember upon one Occasion hearing from Mrs. Shawe that she had been to the Theatre, and that it was too late to return Home, as the Coach was gone back to Bexley ?  
Yes.
429. Did she make any Request of you upon that Occasion ?  
Yes ; she asked me to allow her to sleep there.
430. What did you say ?  
I said yes, certainly.
431. Where was she to sleep ?  
On the Sofa ; I had no other Place for her to sleep.
432. In Mr. Prescott's Room ?  
No ; in the adjoining Room.
433. Was that said by you in the Hearing of Mr. Prescott ?  
No ; Mr. Prescott was not there.
434. Subsequently, the same Evening, did any thing pass in Mrs. Shawe's Presence about Mr. Prescott giving up his Bed to her ?  
Yes.
435. Was that Arrangement made ?  
Yes.
436. Did you see Mrs. Shawe in that Bed ?  
I did ; I was with her.
437. Did that Room adjoin to the Sitting Room occupied by Mr. Prescott ?  
It opened with folding Doors, and another Door out the other Way.
438. In the Morning did you go into the Bed-room where Mrs. Shawe was, for the Purpose of assisting her in dressing ?  
I did.
439. While you were there did you hear Mr. Prescott's Voice ?  
Mr. Prescott was in the other Room.
440. Did you hear his Voice from there ?  
Yes. I likewise saw him, because I had opened the Door, and saw him on the Sofa.
441. How was he dressed ?  
He had his Morning Dress on, but there were the Bed Clothes.

(50.)

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442. Was



June Flower.

442. Was there any Lock to the Door between the Bed-room and the Sitting Room?

Yes.

443. When Mr. Prescott called you did you pass through the folding Doors to answer his Call?

Yes.

444. Did you find that the Door was locked on the Inside?

No.

445. From Beginning to End I understand you to say you remained under the Impression that they were Relations?

I did, because she always paid the greatest Attention to the Child, and the Child was taken out by her, and the Child was at Bexley Heath with her.

446. That being your Impression, probably they were left together, as far as you were concerned, very much?

Yes, of course.

447. Did they spend many Hours with each other, with no other Person in your House?

Yes, with no other Person in my House.

448. Do you know of Correspondence passing between them? Letters.

Cross-examined by Mr. James.

449. Was Mr. Prescott in any Business of any Kind?

Not that I know.

450. Was he in the habit of occasionally having Ladies call upon him upon Business? Was not he a Commission Agent, or something of that Kind?

Not that I know of.

451. He has no Office at his Place of Dwelling?

Not at my House.

Re-examined by Mr. Talbot.

452. Is Mr. Prescott in your Debt?

Yes.

453. To a considerable Amount?

Yes.

454. For what?

For Lodgings.

455. And Food?

Yes.

456. Have you Reason to know, independently of that Circumstance, that his Circumstances are much embarrassed?

I should say they are; I am not positive.

457. Have Officers been to your House in quest of him?

Yes, there have.

458. Is he lodging with you still?

He is not.

459. Has he given up his Lodging?

No.

460. Do

460. Do you still debit him with the Amount of the Lodging?

I do not know; I take all his Letters in.

Jane Flower,

461. But he does not resort there?

No. The only Time I see Mr. Prescott is on a Sunday.

462. And then he comes?

Yes.

The Witness was directed to withdraw.

Then Mr. CHARLES MORGAN was again called in; and further examined as follows:

Mr. C. Morgan.

463. (*By Mr. Talbot.*) Do you produce an Office Copy of the Judgment in the Action of Shawe against Prescott?

I do.

[The Witness produced the same, which was read, being an Office Copy of a Record of a Judgment in the Court of Queen's Bench, in Hilary Term, in the Fourth Year of the Reign of Her present Majesty, in an Action by Nathaniel Bogle French Shawe against William Prescott, for Criminal Conversation with Charlotte Shawe, the Wife of the said Nathaniel Bogle French Shawe, for One hundred Pounds Damages, besides Costs of Suit.]

464. Did you examine that with the Original?

I did.

465. Where?

At the Treasury Chamber of the Queen's Bench.

466. (*By Mr. James.*) Has it got the Seal of the Court upon it?

It has.

467. (*By Mr. Talbot.*) Do you also produce an examined Copy of the Writ of Execution?

I do. (*Producing the same.*)

468. With what did you examine it?

I examined it with the original Writ filed at the Treasury Chamber.

469. Does the Return appear upon the Writ?

It does; the Endorsement.

470. Just read it?

"The within-named William Prescott hath not any Goods or Chattels in my Bailiwick whereof I can cause to be made the Damages within mentioned or any Part thereof. The Answer of Michael Gibbs, Esquire, Sheriff. Thomas Farncomb, Esquire."

471. Did you employ your own Bailiff?

I left it at the Sheriff's Office.

472. No Special Bailiff?

No Special Bailiff.

473. Have you Reason, independently of the Return, to believe that that is consistent with the Truth?

I have.

Cross-examined by Mr. James.

474. Was the Writ issued upon the Judgment at once?

It was.

(50.)

477. Are

Mr. C. Morgan.

475. Was it directed to Mr. Prescott's Lodgings, that we have heard of?

It was.

476. (*By Mr. Talbot.*) Do you produce also the Deed of Separation?

Yes.

477. Are you the attesting Witness?

I am the attesting Witness to Captain Shawe's Signature.

478. Will you put it in?

The Witness produced the same.

479. Have you an examined Copy of that Deed of Settlement?

I have.

The Witness delivered in the same.

480. (*By Mr. James.*) By this Deed, as it appears, there is an Annuity reserved to Mrs. Shawe of 200*l.* a Year?

There is.

481. Is that paid through your Hands?

It is not.

The Witness was directed to withdraw.

Mr. Talbot stated, That the Petitioner was in attendance if it should be the Pleasure of the House to examine him.

Mr. James was heard on behalf of Mrs. Shawe, and submitted, That in case the Bill should pass some Provision should be inserted to retain to her the Annuity of 200*l.* secured by the Deed of Separation.

The Counsel were directed to withdraw.

Ordered, That the further Consideration and Second Reading of the said Bill be put off *sine Die*.



# MINUTES OF EVIDENCE

TAKEN UPON THE

SECOND READING OF THE BILL,

INTITULED

“ AN ACT to DISSOLVE the Marriage of THOMAS WYATT Esquire  
“ with ELIZABETH GREY his now Wife, and to enable him to  
“ marry again ; and for other Purposes therein mentioned.”

---

Ordered to be printed 4th May 1841.

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(91.)

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*Die Jovis, 22° Aprilis 1841.*

**T**HE Order of the Day being read for the Second Reading of the Bill, intituled " An Act to dissolve the Marriage of Thomas Wyatt, Esquire, " with Elizabeth Grey his now Wife, and to enable him to marry " again; and for other Purposes therein mentioned;" and for hearing Counsel for and against the same; and for the Lords to be summoned;

Evidence on  
Wyatt's Divorce  
Bill.  
\_\_\_\_\_

Counsel were accordingly called in :

And Mr. Crowder and Mr. Bailey appearing as Counsel on behalf of the Petitioner;

And no Counsel appearing for Mrs. Wyatt;

Mr. Crowder was heard to open the Allegations of the Bill.

Then Mr. JOSEPH SPENCER JUDGE was called in; and having been sworn, was examined as follows : Mr. J. S. Judge.  
\_\_\_\_\_

1. (*By Counsel.*) You are an Attorney in the Supreme Court at Calcutta, and also in the Queen's Bench in this Country ?

I am.

2. Are you the Solicitor for Mr. Wyatt for this Bill ?

I am.

3. Did you serve on Elizabeth Grey Wyatt a Copy of the Bill now before their Lordships ?

Yes; upon the 15th of March I served a Copy of the Bill, with the Signature of the Clerk of the Parliaments, upon Mrs. Wyatt at Ostend, and also a Copy of the Order of this House for the Second Reading of the Bill.

4. (*By a Lord.*) Where was she ?

At Ostend.

5. (*By Counsel.*) Did you see her ?

I did.

6. Had you any Conversation with her upon this Subject ?

A great deal.

7. (*By a Lord.*) Do you know her personally ?

Yes.

8. You knew her before ?

Yes; I first knew her personally in 1839.

(91.)

A 2

Then

Rev. E. D. Tinling. Then the Reverend E. DOUGLAS TINLING was called in ; and having been sworn, was examined as follows :

9. (*By Counsel.*) Are you the Curate of the Parish of Saint Mary at Southampton ?

I am.

10. Do you produce the Marriage Register of that Parish for the Year 1817 ?

I do.

11. Will you refer to the Entry of the Marriage of Thomas Wyatt and Elizabeth Grey ?

I have it.

The Witness was directed to withdraw.

Mrs. C. Carte. Then Mrs. CHARLOTTE CARTE was called in ; and having been sworn, was examined as follows :

12. (*By Counsel.*) Are you the Sister of Mr. Thomas Wyatt ?

Yes.

13. Were you acquainted with Mrs. Wyatt ?

I was.

14. Do you know her Handwriting ?

I think I do.

15. Will you look at that Entry, and see whether that is the Signature of Mrs. Wyatt ? (*The Entry in the Marriage Register being shown to the Witness.*)

It is, to the best of my Belief.

16. You believe that to be her Signature ?

I do.

17. And the other is your Brother's ?

It is.

18. (*To Mr. Tinling.*) Will you read the Entry ?

The same was read as follows :

“ Marriages solemnized in the Parish of Saint Mary in the Town and County of the Town of Southampton in the Year 1817.

“ Thomas Wyatt, Bachelor, and Elizabeth Grey Coxwell, Spinster, both of this Parish, were married in this Church by Banns, this Twenty-second Day of July in the Year One thousand eight hundred and seventeen,

“ By me,  
GEORGE WHITTAKER, Minister.

“ This Marriage was solemnized between us - - - { THOMAS WYATT.  
ELIZABETH GREY COXWELL.

“ In the Presence of - - - { HENRY COXWELL.  
MARY COXWELL.  
JANE COXWELL.”

“ No. 138.”

“ I hereby certify that the above is a true Extract from the Register of Marriages of the Parish of St. Mary above mentioned. Witness my Hand this Third Day of April 1841.

“ G. L. PARSONS, Officiating Minister.”

(To

( 5 )

19. (*To Mrs. Carte.*) I believe you knew Mrs. Wyatt before her Marriage? Mrs. C. Carte.

I did.

20. Did you go over to India to see them after the Marriage?

Yes.

21. In what Year did you go?

In 1820.

22. Did you find Mr. and Mrs. Wyatt living together then in India?

Mr. Wyatt was up the Country.

23. Afterwards did he return?

Yes.

24. Did they continue to live together till you quitted?

Yes.

25. In what Year did you quit India?

In 1825.

26. In that Year did you accompany Mrs. Wyatt to England?

I did.

27. Before that Time on what Terms, during the Time you were there with them, did they live together?

They appeared to live very happily.

28. What was the State of Mrs. Wyatt's Health prior to 1825?

She was in a very bad State of Health.

29. Do you know that she was attended by Physicians, and that it was necessary to the Preservation of her Life that she should return to England?

I do.

30. When she returned to England did she live with her Father and Mother?

She did.

31. I believe shortly after that Period you married?

I did.

32. And you were not much in the habit of seeing her afterwards?

I was not.

The Witness was directed to withdraw.

Then Mr. CHRISTOPHER IDLE was called in; and having been sworn, was examined as follows:

Mr. C. Idle.

33. (*By Counsel.*) Were you acquainted with Mrs. Wyatt in 1830?

Yes; I met her in London in the Year 1830.

34. Did you meet her at her Brother's?

No; I met her at Mr. Atkinson's, in Nottingham Place; and I met her also at Mr. Gill's, in Wimpole Street, in the Year 1830.

35. Did you afterwards see this Lady at Calais?

Yes; in the Year 1833 or 1834, I forget which.

36. Where did you see her at Calais?

I saw her at Two Lodgings; the first Lodging was in the Rue de Havre.

37. In whose Company was she when you saw her there?

Colonel Rochfort.

(91.)

B

38. Did



Mr. C. Idle.

38. Did you know Colonel Rochfort before?  
No; I never saw him till I met him there.
39. You saw them together upon that Occasion?  
Yes.
40. Did you see them afterwards in Calais together?  
Frequently.
41. Did you see her also in another Lodging?  
Yes; in the Rue de Thermes.
42. Was she living alone, or with anybody else?  
With Colonel Rochfort.
43. Did they appear to be living as Man and Wife?  
Yes, to all Appearance.
44. How long did you continue to know her living at Calais with Colonel Rochfort?  
During the whole Time they were there, from 1833 or 1834 to 1836.
45. During that Time do you know of her having any Child?  
Yes.
46. Did you see her when she was in the Family-way?  
Yes, frequently.
47. Do you remember the Fact of the Birth of the Child?  
Yes.
48. Was there any thing to call your Notice particularly to it?  
Yes; I recollect the Name. The Name was published in the French Gazette at Calais.
49. Was it a peculiar Name?  
Yes, an Indian Name; it was Rajphoot Runjheeb, or something of that Sort.
50. During all the Time you knew her at Calais she was living with Colonel Rochfort?  
Yes; except when he was absent, for Three or Four Months together.
51. And when he returned, he returned to her?  
Yes; he lived in the same House with her always.
52. I do not know whether you know the Family of Mrs. Wyatt?  
No, I know none of them; I know Colonel Wyatt,—Sir Henry Wyatt of the Life Guards.
53. Did you know that she was his Sister?  
His Sister-in-Law.
54. You knew that she was the Wife of his Brother?  
Yes.
55. (*By a Lord.*) Did you visit them at their Lodgings?  
Yes, frequently.
56. You were in the House with them?  
Yes.
57. In both Lodgings?  
In both.
58. (*By Counsel.*) Did you visit her in the Lodgings at Monsieur Castaing's?  
Yes; those are the Lodgings.

The Witness was directed to withdraw.

Then

( 7 )

Then Mr. GORDON URQUHART was called in ; and having Mr. G. Urquhart.  
been sworn, was examined as follows :

59. (*By Counsel.*) Were you acquainted with Colonel Rochfort ?  
I was.
60. And Mrs. Wyatt ?  
I was.
61. Were you in the habit of seeing them at Calais ?  
Daily.
62. During what Period ?  
From 1833 to 1836.
63. On what Terms were they living together ?  
As Man and Wife.
64. Do you recollect a Child being born ?  
I do.
65. About what Year was that ?  
I think about the Autumn of 1835.
66. Were they living at Castaing's then ?  
They were living at Castaing's at that Period.
67. Used you frequently to see them together both before and after that Event ?  
Frequently.

The Witness was directed to withdraw.

Then MARIE AMANDE was called in ; and having been sworn, Marie Amande.  
was examined as follows :

68. (*By Counsel.*) Did you know Colonel and Mrs. Rochfort at Calais ?  
Yes.
69. Did you ever attend Mrs. Rochfort ?  
No.
70. Did she ever ask you to attend her upon any Occasion ?  
She did.
71. What was it for ?  
To be nursed.
72. Was she then in the Family-way,—with Child ?  
She was.
73. She wished you to nurse her ?  
Yes.
74. Did you have any Conversation with her about the Time when she expected to be confined ?  
The Beginning of October.
75. Did you agree with her, or not ?  
I could not go to her.
76. What Year was it in ?  
What I recollect was in October 1835.
77. You were engaged, and therefore could not attend her ?  
Exactly.

(91.)

78. Did

Marie Amande.

78. Did you after that Time see Mrs. Rochfort?  
No; but I saw the Child often walking.
79. Did you see Mrs. Rochfort with the Child?  
No.

The Witness was directed to withdraw.

Mr. W. W. Smith. Then Mr. WILLIAM WYKE SMITH was called in; and having been sworn, was examined as follows:

80. (*By Counsel.*) Were you the Attorney employed in bringing the Action in the Court of Queen's Bench by Mr. Wyatt against Colonel Rochfort?

I was.

81. Have you recovered the Damages in the Action?  
No, none of them.

82. What was the Amount of the Damages?  
230*l.*

83. Did you take any Proceedings towards enforcing Payment of those Damages?

We have issued Process of Outlawry against Colonel Rochfort.

The Witness was directed to withdraw.

Mr. John Davis. Then Mr. JOHN DAVIS was called in; and having been sworn, was examined as follows:

84. (*By Counsel.*) Do you produce the Proceedings of Outlawry and the Judgment in the Court of Queen's Bench?

I do.

The Witness delivered in the same.

The Witness was directed to withdraw.

Mr. J. R. Morley. Then Mr. JOHN REDSHAW MORLEY was called in; and having been sworn, was examined as follows:

85. (*By Counsel.*) Have you resided at Calais for many Years?  
Nearly Forty.

86. Do you know Colonel Rochfort?  
I have seen him; I was not particularly acquainted with him.

87. Did you know him by Sight for a long Time?  
Yes.

88. At what Period?  
I should think from 1834 to 1836.

89. Living at Calais?  
Yes.

90. Was anybody living with him?  
There was a Lady living with him.

91. During all that Time?  
During all that Time,

92. Did

( 9 )

92. Did you afterwards have any Application from that Lady for Money? Mr. J. B. Morley.

I did.

93. Did you receive that Letter from her? (*A Letter being shown to the Witness.*)

I did.

94. A Letter requesting the Loan of 100 Francs?

Yes.

Then Mrs. CHARLOTTE CARTE was again called in, and further examined as follows :

Mrs. C. Carte.

[The Letter produced and Three others were shown to the Witness.]

95. (*By Counsel.*) Is that the Handwriting of Mrs. Wyatt?

Yes; to the best of my Belief that is her Handwriting. I do not know whether the first is hers, but the others are hers.

96. (*To Mr. Morley.*) Were those other Letters sent to you?

They were.

97. They are all signed, I believe, "E. G. Wyatt"?

They are.

98. Will you deliver them in?

The same were delivered in, and are as follow :

I have not personally the Pleasure of knowing you yet, or I thank you, and very truly, already for a kind Attention. I hope Mr. Addis was properly punctual. I am now going to Paris, and after paying all my little Demands, I find myself looking in vain for 100 Francs more. May I, dare I in fact, a Stranger, intreat Mr. Morley to lend it me only till I get to Paris, when Mr. Rochfort will return it with the greatest Pleasure, and his hearty Acknowledgments for the Service Mr. Morley will confer on me.

Pray believe me in a grand Difficulty, and absolutely now dressing to go; the Diligence starts at Nine; the Man is here for the Things, and I minus 100 Francs. Forgive the Liberty of the Request, the Paper, the Writing; and be assured only of my Thanks and Respect.

E. G. WYATT.

Address me to my Servant, if you please, as Mrs. Rochfort."

Rue Neuve de Berri, No. 3, Champs Elysées, Paris,  
August 19th, 1836.

My dear Sir,

Had I written you as immediately as I wished a Week even had not passed without my thanking you, and very sincerely too, for the kind Obligation you had conferred, and at the same Time have restored you the Amount of it. I have been disappointed in the Receipt of rather a large Sum of Money, and this alone has deprived me of the great Pleasure of remitting the Hundred Francs, which I so unceremoniously and uncouthly requested, and which you so amiably sent me a few Minutes before my Departure from Calais.

By Letters from England I find there will still be some little Delay

(91.)

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before

Mr. J. R. Morley. before I receive the Money I allude to; but I would make you a Proposal, which if agreeable, I shall immediately have the Pleasure of returning you the 100 Francs, and of receiving from you another Service, which, believe me, I shall appreciate with much Sincerity.

On the 15th of January the Court of Chancery will again pay me a Dividend of 26l. 10s.; may I venture to offer you an Order for it, and to beg, as an additional Service, the Advance of the Balance, after deducting, as of course, the Discount, &c., and the Hundred Francs so very amiably lent me.

I hear from our respected and charming Friends, the De Bochets, who dined with us a few Days since, that they are great Allies of yours, and that now and then you visit Paris. I hope in your next Trip you will give me the Opportunity of personally saying how properly I have valued the Obligation you have already conferred, and how much I shall esteem a Repetition of it, if I may presume to ask it. It is so strange that I never have had the Pleasure of knowing you, and yet that I should have experienced Kindness from you.

Mr. Troward's Gallantry, too, I shall faithfully remember; I beg you to make him my Compliments. Anticipating the Favour of hearing from you, believe me,

My dear Sir,  
to be very respectfully and sincerely,  
Your obliged,

E. G. WYATT.

May I beg you in replying, to let the Address of your Letter be to me as Madame Rochfort, that Name only being familiar here in our Apartments.

(Addressed)

Monsieur  
Monsieur Morley,  
Rue de Guise, à Calais,  
Dep. de Pas de Calais.

Rue Neuve de Berri, Champs Elysées, Paris,  
Sept. 21st, 1836.

My dear Sir,

If you will only as readily forgive the Liberty I have taken with you as I forgive you for letting my poor Letters remain so long unanswered, I shall have a very substantial Cause to rejoice and to thank you.

Although I asked a Favour in one respect in the Way of Business, I was quite conscious of it not being a customary Thing to discount Orders at so long a Date; and my Language of asking *I intended* should say enough to convince you of this, and persuade you to accord, by Favour and amiable Indulgence, what certainly I had neither Claim by Acquaintanceship, if I may adopt the Expression, nor Claim in point of Business to request. I can only say, and say it with a great deal of Sincerity, that if you will let me prevail on you to advance the Balance, after deducting 100 Francs you so kindly lent me, with Discount, &c. &c., you will oblige and serve me more essentially than perhaps you can suppose the Service to embrace. Do forgive me; do, pray, comply with my Request, and let me send you the Order; and pray answer before you recommence the Joys of Shooting, or my poor Letter will remain another Thirty Days upon the Shelf. I already

( 11 )

thank you by Anticipation for your Acquiescence, and beg you, *Mr. J. R. Morley.*  
my dear Sir, to consider me

Yours very respectfully,  
E. G. WYATT.

Do me the Favour to direct, as before, to the Name of Madame Rochfort.

(Addressed.)  
Monsieur  
Monsieur J. Morley, Banquier,  
Rue de Guise, à Calais,  
Dept. de Pas de Calais.

3, Rue Neuve de Berri, Champs Elysées, à Paris,  
20th January.

My dear Sir,

I am confident in the Hope of remitting you my Obligation of 100 Francs during the next few Days, and thankful to I am you for the excessively kind Patience you have exercised.

My Honesty has been somewhat tardy in its Proof, but you are amiable enough to forgive, and to believe me conscious of the Favour I have received. Pray, my dear Sir, consider me faithfully,

Yours obliged,  
E. G. WYATT.

(Addressed) Franco.  
Monsieur  
Monsieur Morley, Banquier,  
Rue de Guise, à Calais,  
Dept. de Pas de Calais.

99. Did you know of her having a Child at Calais ?  
I did.
100. Do you recollect the Time ?  
Not exactly ; I should think it was about 1834 or 1835.
101. Have you seen her with the Child ?  
Never.
102. Did you see her before the Birth of the Child ?  
I had seen her before she had the Child.
103. Did you observe that she was in the Family-way ?  
No, I did not remark it.
104. You were not acquainted with her ?  
No.
105. (*By a Lord.*) How do you know that she had a Child ?  
The Doctor mentioned it to me.

The Witness was directed to withdraw.

Then Mr. JOSEPH SPENCER JUDGE was further examined *Mr. J. S. Judge.*  
as follows :

106. (*By Counsel.*) You were for many Years a Solicitor residing in India ?  
Yes.
107. When did you leave India ?  
In 1838 ; the Month of July.
- (91.) 108. Do

Mr. J. S. Judge.

108. Do you know Mr. Thomas Wyatt, the Petitioner ?

Very intimately indeed ; I was his Solicitor for many Years.

109. When was the earliest Period at which you knew him in India ?

I think about 1829 or 1830.

110. Was he in India when you left India ?

Yes, he was ; he had been in India during all that Time, except about Eighteen Months, when he was absent upon Leave at the Cape of Good Hope.

111. From the Time you knew him in India was he ever in England ?

No.

112. (*By a Lord.*) At what Period was he absent ?

I know that he was at the Cape of Good Hope during all that Time, because I was in Correspondence with him during the whole of that Time.

113. In what Year was he absent ?

I think he left some Time in 1832, and he returned about the End of 1833.

114. (*By Counsel.*) Are you sure that he was in India again by the End of 1833 ?

That is my Recollection ; I know that he was absent about Eighteen Months, and I think he left India some Time in 1832, and returned in 1833. He certainly returned towards the Close of 1833 or the Beginning of 1834.

115. You are quite certain that he was in India again before the End of 1834 ?

Yes ; and I am quite certain that he was in India from 1834 till the Time I left it, because I was in the habit of seeing him there frequently.

116. What Situation did Mr. Wyatt hold in India ?

When I left India he was Civil and Session Judge at Birdwun ; I have received Letters since, mentioning that he was removed from Birdwun to Runjpore, and he is now Civil and Session Judge there.

117. Do you know what his Circumstances were ; whether he was in affluent or in straitened Circumstances ?

He had a very valuable Situation ; his Salary was either 28,000 or 30,000 Rupees a Year ; but he was so much in Debt that it was scarcely more than sufficient to pay the Interest of his Debts. He was dreadfully involved.

118. Do you know whether in 1832 or 1833 he could have come to England on account of his Debts ?

I am certain that he could not ; I know that he was prevented by Alexander and Company and Mackintosh and Company, who were very large Creditors of his, from going to the Cape for a considerable Time after he had got Leave to do so, and he went to the Cape instead of coming to England, because by going there he did not forfeit the whole of his Salary and Allowance. If he had come to England he would have been reduced to 300*l.* a Year as a Civilian out of Employment ; but by going to the Cape he was able to retain his Situation, and to receive Two Thirds or a very large Proportion of his Salary and Allowances.

119. You

( 13 )

119. You mentioned having seen Mrs. Wyatt at Ostend ?

I saw Mrs. Wyatt and Colonel Rochfort together at Ostend in January 1839. The Son had been placed at School at Old Brompton.

*Mr. J. S. Judge.*

120. What Son are you speaking of ?

The Son of Mr. Wyatt ; he had gone away, and we did not know where he was gone to, but we supposed he had gone to visit his Mother at Ostend. I went to Ostend, and when I arrived there I found that he had left Ostend ; but I received a Note from Colonel Rochfort, whom I had known many Years ago, requesting me to call upon him, and I did so ; there I saw him and Mrs. Wyatt together.

121. Did you see a little Boy ?

I did not ; they spoke of a little Boy, but they said that he had gone to Bed.

122. Did you afterwards see the little Boy at Ostend ?

I saw the little Boy at Ostend in March last ; I had Occasion to go to Ostend to serve a Copy of the Bill upon Mrs. Wyatt, and the Order of the House for the Second Reading of the Bill. She then introduced me to the Child, a very handsome Boy.

123. Do you know what Age he was ?

She told me he was Five Years old last October.

124. Did you afterwards proceed from Ostend to Calais ?

I did.

125. Did you examine the Register of Births there ?

I did.

126. Did you make any Inquiry as to what the proper Office was ?

I was told that I should find the Register of Births at the Hotel de Ville, the Town Hall ; and then I went to the Office of the Maire, and at the Office of the Maire I found an Entry, of which this is a true Copy. I examined it myself with the Original on the 17th of March.

127. Is it authenticated by the proper Officer ?

It is authenticated by Monsieur Devot, who represented himself to me as the Sub-Maire of Calais.

128. Is that a correct Copy ?

It is a correct Copy ; the Seal was affixed in my Presence at the Town Hall.

129. Will you deliver in that Document ?

The same was delivered in, and is as follows :

Extrait du Registre aux Actes de Naissances de la ville de Calais.

L'an mil huit cent trente-cinq, le douze Octobre, à quatre heures et demi de l'après-midi, pardevant nous adjoint au maire de la ville de Calais, département du Pas de Calais, délégué par arrêté de ce magistrat du quinze Juin mil huit cent trente-trois pour remplir les fonctions d'officier de l'état civil du dit lieu, est comparu William Henry Rochfort, âgé de quarante ans, lieutenant colonel d'artillerie

(91.)

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au



Mr. J. S. Judge. au service de la reine du Portugal, demeurant à Calais, lequel nous a déclaré que le dix de ce mois, à midi, est né un enfant du sexe masculin en la maison numero deux cent cinq rue des Boucheries ; qu'il nous presente, et auquel il a déclaré donner les prénoms de Rajphoot Runjheet, se reconnaissant pour être le père de cet enfant, et l'avoir eu d'Elizabeth Gertrude De Grey, âgée de trente ans, rentière, demeurant à Calais. Les dites déclarations et présentations faites en présence d'Antoine Leleux, âgé de cinquante-trois ans, imprimeur, libraire du roi, et d'Arnaud Castaing, âgé de trente-neuf ans, marchand de vins en gros, domiciliés à Calais ; et ont le père et les témoins signé avec nous le présent acte de naissance après lecture faite. Signé William Henry Rochfort, Leleux, Castaing, Visse, et le Maire.

Délivré par nous maire de la ville de Calais le present extrait, conforme au registre, en l'hotel de la mairie, le dix sept Mars, mil huit cent quarante-un.

LEGROS DEVOT.

130. Did you afterwards apply and make any Search at the Passport Office ?

I applied to Mr. Marshall, the Consul at Calais, to know whether he had issued any Passport for Mrs. Wyatt and any other Person to leave Calais, and he then told me that Mrs. Wyatt, whom he had known by the Name of Rochfort, called upon him and applied for a Passport in the Name of Rochfort, which he refused to give her, because he had understood that her Name was Wyatt ; and she then applied to him for a Passport in the Name of Elizabeth Grey Wyatt, and he granted her a Passport, of which I produce a Copy. I examined it with the Entry in the Consul's Register.

131. Is it attested by any official Person ?

Yes, it is attested by the Consul ; and then I went to the Police Office, and obtained from the Commissary of Police the Entry of the same Passport in his Register.

132. And that is authenticated also ?

That is authenticated also, and I examined it with the Original. I obtained also a Copy of the Passport of Henry Herbert Wyatt, the Son of the Petitioner, whom I knew very intimately ; in fact he is under my Care now.

133. Will you deliver in those Documents ?

The Witness delivered in the same, which are as follow :

EXTRACT

EXTRACT from the REGISTER of PASSPORTS delivered by HER MAJESTY'S CONSUL at CALAIS in the Month of July 1836 ; taken from the Register of Passports in the Consular Office at Calais aforesaid.

1836.	No.	Names.	Profession.	Reference.	Age.	Height.	Hair.	Forehead.	Eyes.	Nose.	Mouth.	Beard.	Chin.	Face.	Complex.	Where going.
July 29	3087	Mrs. Elizabeth Grey Wyatt.	- - - -	- - - -	30	1 73	Chat <sup>n</sup>	High	Bleus	*D <sup>o</sup>	*D <sup>o</sup>	- -	*D <sup>o</sup>	*D <sup>o</sup>	Coloré	*D <sup>o</sup>

I certify, that the foregoing Entry of a Passport delivered at this Office to Mrs. Elizabeth Grey Wyatt on the 29th July 1836 is correctly transcribed from the Register of Passports for that Year kept in this Office.

Given at Calais the 18th Day of March 1841.

S. G. MARSHALL,  
H. B. M. Consul at Calais, &c.

\* The Marks D<sup>o</sup> refer to the preceding Description of Features as entered in the same Columns relating to other Passports, and mean as follows :—

Nose.	Mouth.	Chin.	Face.	Where going.
Moyen	Moyenne	Rond	Ovale	Paris.

S. G. MARSHALL,  
H. B. M. Consul at Calais, &c.

EXTRAIT du REGISTRE de Visa des PASSEPORTS des Etrangers débarqués à Calais. 1836, 29 Juillet.

No. d'ordre.	Noms et prénoms.	Age.	Pays de naissance.	Qualités ou professions.	Venant de.	Où ils sont logés.	Autorités qui ont délivré les passeports.	Dates des passeports.	Numéro des passeports.	Visa du ministre de l'Intérieur.	Destination.
2299	Wyatt (Elizabeth Grey) avec un enfant et une servante.	30	Angl <sup>re</sup>	Rentière	Angleterre.	En ville	Le consul Anglais à Calais.	29 Juillet 1836.	3088	- -	Paris.

Certifié le present extrait véritable par nous commissaire de police de la ville de Calais. Calais, 18 Mars 1841.

E. SALLIOR,  
Le commissaire de police délégué.

Commissariat } Le commissaire de police de la ville de Calais, délégué pour la surveillance du passage de Calais. } et des étrangers, soussigné, certifie qu'il résulte de l'examen des registres tenus à la mairie de la dite ville pour le visa des passeports, que le vingt-neuf Juillet mil huit cent trente-six un passeport delivré le même jour par M. le consul de S. M. B. à Calais, No. 3088, à la destination de Paris et au nom de M<sup>me</sup> Elizabeth Grey Wyatt, a été visé pour la destination indiquée, et que sur le dit passeport étoient mentionnés comme accompagnans de la dame Wyatt un enfant et une servante. En foi de quoi nous avons delivré le present.

Calais, 18 Mars 1841.

E. SALLIOR,  
Le commissaire de p<sup>ce</sup> délégué.

EXTRACT from the REGISTER of PASSPORTS delivered by HER MAJESTY'S CONSUL at CALAIS in the Month of June 1836 ; taken from the Register of Passports in the Consular Office at Calais aforesaid.

1836.	No.	Names.	Profession.	Reference.	Age.	Height.	Hair.	Forehead.	Eyes.	Nose.	Mouth.	Beard.	Chin.	Face.	Complex.	Where going.
June 27	3040	Mr. Henry Herbert Wyatt.	- -	- -	14	1 67	Chat <sup>n</sup>	Ord <sup>re</sup>	Bleus	Court	*D <sup>o</sup>	- -	*D <sup>o</sup>	*D <sup>o</sup>	Ord <sup>n</sup>	Paris.

I certify, that the foregoing Entry of a Passport delivered at this Office to Mr. Henry Herbert Wyatt on the 27th of June 1836 is correctly transcribed from the Register of Passports for that Year kept in this Office.

Given at Calais this 18th Day of March 1841.

S. G. MARSHALL,

H. B. M. Consul at Calais, &c.

\* The Marks D<sup>o</sup> refer to the preceding Description of Features as entered in the same Columns relating to other Passports, and mean as follows :—

Mouth.	Chin.	Face.
Moyenne	Rond	Ovale

S. G. MARSHALL,

H. B. M. Consul at Calais, &c.

Mr. Crowder stated, That he proposed to put in some Letters which had passed between Mr. and Mrs. Wyatt, to show the Terms upon which they lived together previous to these Occurrences ; but that the Letters not having been obtained from the Court of Queen's Bench, where they had been delivered in upon the Trial of the Action, he was not prepared to produce them now.

The Counsel was informed, That he might deliver in the Letters upon a future Day.

The Counsel and Parties were directed to withdraw.

Ordered, That the further Consideration and Second Reading of the said Bill be put off *sine Die*.

( 17 )

*Die Martis, 4<sup>o</sup> Maii 1841.*

**T**HE Order of the Day being read for the further Consideration and Second Reading of the Bill, intituled " An Act to dissolve the Marriage of Thomas Wyatt, Esquire, with Elizabeth Grey his now Wife, and to enable him to marry again; and for other Purposes therein mentioned;" and for hearing Counsel for and against the same; and for the Lords to be summoned;

Evidence on  
Wyatt's Divorce  
Bill.

---

Counsel were accordingly called in :

Counsel stated, That he proposed to call a Witness to explain the Reason why the Evidence given at Nisi Prius and in the Consistory Court was different from that given at their Lordships Bar.

Then Mr. JOSEPH SPENCER JUDGE was called in; and having been sworn, was examined as follows :

*Mr. J. S. Judge.*

---

134. (*By Counsel.*) I believe you went over to Calais in the last Month ?

Yes; I was there the 17th of March last.

135. Did you make Application to any Persons there to appear here as Witnesses ?

I applied to a Person named Desirée Florentin, who was examined in the Consistory Court and in the Court of Queen's Bench. I asked her to come over as a Witness upon the present Proceeding; she said she had been told she ought to get as much as 1,500 Francs for coming over, besides getting her Expenses; I said if I gave her any such Sum the House might consider it as a Bribe, and I would not offer her any such Money.

136. Did you also call upon Dr. Bradley, who had been examined in the Queen's Bench ?

Yes. I found him a Gentleman between Seventy and Eighty Years of Age, and suffering from Gout; and he said that if he came to England he thought the Voyage and the Gout would be fatal to him. I served him with the Order. I afterwards went to Boulogne, where I saw Jeannette Sta, the Nurse, and who had given Evidence; she told me she was sorry she had ever done so; she had eaten the Bread of Colonel Rochfort and Mrs. Wyatt, and was sorry she had ever given Evidence, and would not come.

The Witness was directed to withdraw.

Then Mr. CHARLES ADDIS was called in; and having been sworn, was examined as follows :

*Mr. Charles Addis.*

---

137. (*By Counsel.*) You are a Solicitor ?

Yes, I am.

(91.)

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138. Were

Mr. Charles Addis

138. Were you Solicitor to the late Mr. Coxwell ?  
I was.

139. And transacted Business for him ?  
Yes.

140. Was Mrs. Wyatt a Miss Coxwell ?  
She was.

141. Are you acquainted with her Handwriting ?  
Yes, I am.

142. Look at those Letters, and say if you believe them to be her Handwriting ?

[Some Papers were handed to the Witness.]

All these Letters put into my Hand are the Handwriting of Mrs. Wyatt.

143. Are you also acquainted with the Handwriting of the late Henry Coxwell ?  
Yes.

144. Was he her Father ?  
Yes.

145. Look at these Letters, and say if you believe them to be his Handwriting ?

[Some other Papers were handed to the Witness.]

Yes, they are, certainly.

The Witness was directed to withdraw.

Counsel stated, That, in order to show the Terms upon which the Parties were living during their Separation, he would read some Passages from the Letters of Mrs. Wyatt and her Father Mr. Coxwell.

The following Extracts were read :

From a Letter dated 22d April 1826.

“ I have been Two Weeks in England, One of which I passed at Milfield, the other with your Mother, and very kind she is to me. The Prattle of our darling Child amuses her exceedingly, and she does her utmost to make him happy and contented ; a sweeter Boy no Father ever owned ; would that you could see him and listen to his foreign-sounding English.” “ I am very anxious and uneasy about you, but am unwilling to venture to advise ; my Health is quite another Thing to what it was ; the old Agent in China wrote you Word I was well, but he never saw me ; he meant kindly ; he is a good old Man.” “ God bless you, Wyatt ; you are very dear to me, and I pray Heaven to guard you for your own Sake and the Sake of your innocent Child ; my Heart’s Affection is with you ; it can never never be diminished ; fervently, tenderly, and truly yours. God bless you.”

From a Letter dated London, 4th August 1827.

“ My ever dearest, ever regarded Love, Month passes after Month, and no Letter arrives from you ; the last reached me in April last, bearing Date August 17th, now nearly a Year since. Every Line it contains speaks Affection and tender Solicitude for my Happiness ; it expresses Feelings the most liberal and kind, and richly claims the Heart’s warmest Thanks in Acknowledgment. Such I give you, dearest.” “ Don’t forget me, with all my many Failings ; I love you fondly ; and with

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with this Assurance I conclude my Letter, merely adding, my dearest Tom, that I shall ever remain most tenderly and sincerely your attached Wife and grateful Friend.

ELIZA.”

From a Letter dated 1st May 1828.

“ I wish I had some News to give you, Love, but to say that I am almost well after the really dreadful Illness I endured will be a Source of some Pleasure to you, and that we shall meet again in October 29 is my Heart's dearest Hope. Farewell, then, beloved and valued Being; confide in my Affection, and accept every Assurance of my unabated Tenderness. God bless you, dearest, and long preserve you in Health, and soon possess you of Happiness. Your lovely Boy will one Day, I trust, be, like you, amiable and accomplished. Heaven protect him, sweet darling Cherub. Adieu, dear Love, adieu in real Attachment, and depend upon my making every possible Effort to obtain your Letters for your new Governor; your Success is mine, and every Exertion shall be made to promote it. Once more farewell, beloved and valued Creature.”

From a Letter dated Paris, 14th October 1827, signed Henry Coxwell, and addressed to Thomas Wyatt, Esquire.

“ I must now again return to the Subject of the Health of our dear Daughter, your affectionate Wife, and can but observe that such is yet the delicate State of her Health, from the repeated severe Attacks upon it while in India, that notwithstanding she is quite comfortable at present, yet a Relapse might undo all we have achieved towards its Establishment, the Permanence of which seems to depend entirely upon her residing in a warm Climate, like that of France or Italy. Be assured, however, that we will watch the Health and the Interests of our beloved Child with parental Tenderness, wherever she may be; and happy, thrice happy shall we be to transfer our Charge to her legitimate Protector, her most worthy Husband; and whom I will for the Moment consider as addressing myself (in the Warmth of his Regard for her) in the Words of the Roman Classic, ‘ et serves animæ dimidium meæ.’ ”

From a Letter dated London, 40 Lower Brook Street, 7th March 1830, signed Henry Coxwell, and addressed to Thomas Wyatt, Esquire.

“ My dear Wyatt,

“ Your long Letter to your Wife was welcomed affectionately by us all. I need not say how great a Relief it afforded us in the Assurance of your Health and Welfare as well as in a pecuniary point of view. I understand, through your Letter to Eliza, that you look for her Return to India by one of the early Ships. Her Anxiety to join you you will readily anticipate; but I do not consider myself justified in encouraging her Desire to leave England while her Medical Attendant pronounces a longer Stay here to be absolutely necessary. Some Months ago her Health promised her the Happiness of being able to join you, but at present it would but be attended with serious Consequences—the Attempt. I regret exceedingly that you should be longer deprived of the Society and affectionate Attentions of your dear Wife, and sorry will her good Mother and myself be to lose her, when-

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ever she shall leave us to join you. At this Moment particularly my dearest Daughter affords the greatest possible Comfort to her afflicted Mother, who is suffering under an Attack of Paralysis, which renders her for the present almost helpless ; but I trust and hope that she may yet be spared to her Family. Your dear little Boy is every thing you could wish on the Score of Talent ; for my Son, who takes such an Interest in his Welfare and Education, tells me there is not such another Boy, for his Studies are merely a Plaything to him ; that he has every Word in ‘ Propria quæ maribus ’ and ‘ As in præsentis ’ at his Fingers Ends, and their Applications ; his Writing you will now have a Specimen of in Eliza’s Letter, and you will receive one from your Boy in her next to yourself. He grows stout and strong, and equal to any Exercise ; his Uncle pays the kindest Attention to him in every Way. How you would be delighted at seeing the little Hercules ! I find, through your Letter to Eliza, that you do not acknowledge my Letter to you of the Date of July. I almost hope it may not reach you, as at the Time I was under the Influence of painful Feelings, occasioned by the Disappointment of not receiving Letters from you for a Length of Period. I am aware that you have had considerable pecuniary Difficulties to contend with, and which your Wife’s longer Stay in England is not calculated to lessen. The Passage Money, which you have now so liberally afforded her, she will hold sacred for that Purpose ; but we must tax your further Generosity to provide for her Expenses during the imperative Necessity of longer Continuance in England for the Recovery of that Strength which she has lately lost.”

The Counsel and Parties were directed to withdraw.

Ordered, That the further Consideration and Second Reading of the said Bill be put off *sine Die*.







