No. 3

STRACY ON THE LAW OF LIBEL.

CORNELL UNIVERSITY
MAR 31 1927
LAW LIBRARY

BLAKE v. PILFOLD.

BASE CONSPIRACY OF WITNESSES.

INFAMOUS PROCEEDINGS OF THE POST OFFICE;

DUKE OF RICHMOND.

IMPEACHMENT OF JUDGE TAUNTON.

London:

PRINTED BY J. KNIGHT, 17, GIBSON STREET, LAMBETH;

AND PUBLISHED BY W. STRANGE, 21, PATERNOSTER ROW;

G. COWIE, 312, STRAND; G. BERGER, HOLYWELL

STREET, STRAND;

AND BY THE AUTHOR, 5, VERULAM BUILDINGS, GRAY'S INN.

1833.

DEDICATION.

TO

SIR WILLIAM ELIAS TAUNTON, KNIGHT,

ONE OF THE PUISNE JUDGES OF THE COURT OF KING'S BENCH,

As a testimony of his partiality in the administration of justice, and his incompetency (not from ignorance, but prejudice) in the exposition of law, the following pages are inscribed (without permission) *by*

THE AUTHOR.

PREFACE.

Victor Causa Diis placuit, sed victa Catoni.

An ardent desire to awaken public attention to the absurdities of the present law of libel, and its uncertain, impotent, and oppressive operation,—a wish to vindicate the character of an oppressed and cruelly treated man from unfounded and malignant aspersions,—and a determination to convince those in power, from the despot to the minion, that, though the tyrannical exercise of their "little brief authority" may escape with impunity, through the meshes of the law, or partiality of a judge, yet, that the sovereign tribunal of public opinion will devote it to universal execration,—are the motives which give existence to the following pages. Free, alike, from partiality to one party, or malevolence to the other, and having been influenced, through the whole course of the proceedings, *solely* by that anxiety which should stimulate every honest mind to remove unmerited calumny from any individual, however humble his sphere in society, the writer stands proudly above all sinister imputation, and appeals with confidence to his fellow countrymen, on the part of an injured and worthy man, whose previous conduct was such as to elicit, on more than one occasion, marked approbation and reward from his employers, and whose character and fortunes have

been immolated by the unprovoked and vindictive malice of one party,—the most culpable precipitancy and partiality of another,—the basest conspiracy of witnesses, and a charge from a judge, the most injudicial, prejudiced, absurd and flagitious that ever disgraced a judgment seat.

It was the boast of the great Junius, " that the laws of England, provide, as effectually as any human laws can do, for the protection of the subject, in his reputation as well as in his person and property ;" but, had Junius lived to the present day, he would have seen how completely the law of libel falsifies and satirises his exultation. For it is to this law as now constituted, to the evil it has already effected, to the calamity involved in its future operation, to which, as I have before stated, it is the object of these pages to rouse the attention of the British nation. That it is a subject of the highest and most signal national concern can require no demonstration from me ; for I cannot conceive " that there is a heart so callous, or an understanding so depraved, as not immediately to feel the force of it." Every question affecting the civil condition of society at once resolves itself into one of constitutional importance, and must be treated as such by all capable of exercising the faculties of rational discrimination. It is in the character of their jurisprudence that the follies and vices of a people must be traced ; and the principle, whether elevated or debased, barbarous or refined, which distinguishes the former, must belong equally, and also previously, to the latter. It is the feelings and opinions of mankind which determine the nature of their institutions, and these, in their re-action, which determine the character of society. Hence, to the most ordinary understanding it must become obvious, that the first of all national solicitudes is the quality and operation of

the laws, and that *He* is most entitled to the name of Patriot who boldly stands forward, not only to defend their virtues against outrage, but also, when necessary, to expose and correct their errors and defects. If the institutions of Great Britain be such as to extend an ægis over vice while they persecute virtue,—to shelter the calumniator while they deny refuge to the victim writhing under his vituperative and slanderons fangs, surely it is time that some advocate for the interests of his country, should exert his energies to provide a remedy for such an order of things, and lift his voice against enormities which are a stigma on the knowledge and civilization of the age. It is by its effects that the law of libel, like all things else, must be judged. To demonstrate the nature of its principle I shall depict the mode of its operation. Let me not be told that I adduce a particular instance to illustrate a general postulate, let me not be told that I found my resistance to this odious and insane law merely because one individual had experienced injury from its operation: such is not the fact, though, if productive of injustice in one instance or more, that I consider sufficient to warrant any degree of opposition; for it is against its principle I contend, and, in such case, I am justified in asserting, that even a single example is adequate to the perfect establishment of my argument. Not, however, that I am at a loss for ample evidence in its support. I could bring forward precedent after precedent to the same effect; and, appealing to every lawyer throughout the kingdom, should have his corroboration of the fact to which I speak,—that our laws, to regain their originally high and transcendant character, must be purified from the pollution which this law of libel has infused into them,—must serve to the preservation of justice, not to the exercise of monstrous and foul oppression,—to the

protection of the injured, not to the security of the injurer, and not become the instrument and abettor of the malice and haughty tyrannies of the powerful against the weak, the lordling against the peasant. The protection of the meanest peasant, in the enjoyment of his civil and social rights, is an object infinitely more deserving the public care than the preservation of his privileges to the highest peer; the abrogation of one must lead to the establishment of despotism; the abolition of the other tends to the equalization of freedom. Let us not, by our apathy, verify the stigma of the reproachful Hume, when he says, that, "the people were, by their ignorance, their stupidity, their necessary avocations, totally unqualified to choose their own principles, and it was a mockery to set materials before them of which they could not possibly make any proper use."

The difficulty of defining the limits of libel according to the present statutes, renders the law equally liable to evasion and abuse, as the administration of justice rests almost completely on the discretion of the Judge, which (as Camden has said and Taunton proved) "is the law of tyrants—it is always unknown; it is different in different men; it is casual, and depends upon constitution, temper, passion—in the best, it is often caprice; in the worst, it is every folly, vice, and passion to which human nature is liable;" yet such is the jurisdiction to which character, the dearest inheritance of man, is intrusted in England, the pride of whose institutions is shamed by the inefficiencies and neglected abuses of this law. Is it to be endured in a country exulting in her enlightened policy, that while the most just, though lenient censures, on those in authority, have been frequently visited by pecuniary inflictions and imprisonment, that the humble individual, whose sole

estate is his good name, may be maligned with impunity, and the destruction of his character sanctioned, or, at least, its destroyer screened by a power perniciously placed above the law, and frequently at defiance with it, to wit—the decision of a prejudiced judge? In remarking on the management of the law, "we have a large field of villainies to travel in; we boast we have the best laws in the world, Magna Charta, and the lord knows what; we talk much of liberty and property, and, with reason, claim it as our due, and praise our excellent constitution above all others, and so it is, if we keep to it: but all this is little more than a jingle of words, which have a delicate sound. How we enjoy those blessings, the lawyers, who are our guardians, and have the custody of this rich patrimony, will, no doubt, give us a very good account. To borrow a few hard words 'tis most certain, that all men have a *divine, hereditary, and indefeasible right to justice*, tis their *jure divino;* but we are like the Romanists, who make it very difficult for the poor, and very easy for the rich, to go to Heaven: so, if a man wants money, of consequence he shall want both *law* and *justice.* At this rate, poor men are in a miserable case who have neither a title to heaven or earth." According to a fair interpretation of the statutes, to sustain a charge of malice *in law*, it is not necessary that an evil intent be proved, it is sufficient that injury has been received by the verbal or written publication of a libel, as the law judges of the act by the effect. But it is adjudged a *bona fide* and privileged communication if, in the case of master and servant, or government and its officers, the allegations be made in reply to inquiries instituted, or with a *bona fide* intention of private caution or public good, in which case, for the protection of society and the public, the law justifies the allegations if true, or even if there be suffi-

cient grounds for a reasonable supposition of their truth: but if the allegation be made voluntarily or uncalled for, or with wilful exaggeration or distortion of facts, or with a view of doing individual injury, the case then assumes the character of an *officious* interference, and becomes a fit subject for the consideration of a jury. The first portion of this opinion is sustained by the decision in the case of Howe *v.* Lord F. C. Bentinck (Broderip and Bingham's Reports, vol. ii. p. 130), wherein the Commander-in-Chief of the Army directed an assembly of commissioned *military* officers to hold an inquiry into the conduct of H. a commissioned officer in the navy; and H., having sued the president for a libel stated to be contained in the report thereupon made, it was held, that the report was a *privileged communication*; that it was properly rejected, and that an office copy of the same was also properly rejected. The latter portion of the opinion is maintained in the case of Patterson *v.* Jones (8 Barn. and Cres. 575). A. discharged his servant, and hearing that he was about to be engaged by B. wrote a letter to B. and informed him that he had discharged the servant for misconduct. B. in answer, desired further information; A. then wrote another letter to B. stating the grounds on which he had discharged the servant. In an action by the servant, for a libel contained in this letter, it was held that, assuming the letter to be a privileged communication, it was properly left to the jury to consider whether the second letter was written *bona fide* or with an intention to injure the servant. A verdict was given for the plaintiff as it appeared that A. wrote the first letter inviting inquiry, and, therefore, no evidence could be received in justification. Thus far the law may be considered plain and intelligible: but according to Judge Taunton's definition of the law, in a case similar to the

latter, " a communication made with a belief of its truth—not a groundless belief, not a silly unfounded belief—a belief for which there was reasonable and probable cause, would be *an innocent and harmless communication*." (Taunton's charge *in re* Blake *v.* Pilfold). Such are the inconsistencies and caprices to which the inefficiency and indistinctness of the law subjects its administration; and to which the public attention cannot be too emphatically directed. The great desideratum is, to make the law intelligible to every moderate capacity, that " the entire body, and substance of the law shall remain, only discharged of idle, unprofitable, or hurtful matter, and illustrated by order towards the better understanding of it, and judgment thereupon;" not to have it so intricate, and unintelligible, that the most skilful might be tempted to exclaim—

> " Between two hawks, which flies the highest pitch,
> Between two dogs, which hath the deepest mouth,
> Between two blades, which hath the better temper,
> Between two horses, which doth bear me best,
> Between two girls, which hath the nicest eye,
> I have, perhaps, some shallow spark of judgment;
> But in these nice sharp quillets of the law,
> Good faith, I am no wiser than a dunce."

I shall not burden the patience of my readers by a tedious analysis of precedents, but shall proceed to a statement of facts, by which the allegations in the opening of my preface will be made evident, viz. *the unprovoked and vindictive malice of the defendant—the most culpable precipitancy and partiality on the part of the Post Office functionaries—the basest conspiracy of witnesses—and a charge from a judge the most injudicial, prejudiced, absurd, and flagitious,*

that ever disgraced a judgment seat. Whatever be my risk, I am prepared for its consequences, and, thanks to Judge Taunton, if I were disposed to avail myself of the latitude which his charge would infer to be legal, I might comment on the facts with a severity commensurate even with his demerits, and claim the impunity of his own definition. However strong my language may appear, I am not only prepared for its vindication, but resolved, in fitting time, to make some of the parties the subject of indictment; and if, by my humble exertions, I can rouse my countrymen to a due sense of the oppression to which they are exposed by the abuses of the law, and its mal-administration, though I myself should ultimately become its victim, the consciousness of having discharged a great and important duty to my fellow subjects, will prove my consolation, whatever be the result. I would address the British public in the words of a polished and powerful writer—"Let me exhort and conjure you never to suffer the invasion of your political constitution, however minute the instance may appear, to pass without a determined and persevering resistance; one precedent creates another; they soon accumulate and constitute law; what yesterday was fact to-day is doctrine; examples are supposed to justify the most dangerous measures, and where they do not suit exactly, the defect is supplied by analogy." This appeal cannot be too deeply impressed on the mind of every man; and though the case about to be detailed be that of an humble individual, it is one, from its cruelty and injustice, calculated to stimulate the most apathetic to a consideration of the evils of the existing laws, to call forth the most ample investigation of the Legislature, and to excite the deepest sympathy of an enlightened public; as, "in the progress, from primitive

equity to final injustice, the steps are silent, the shades are almost imperceptible, and the absolute monopoly is guarded by positive law and artificial reason."

The consequences which, in the particular instance in question, have flowed from the operation of this execrable law, may be indeed brief to relate, but from which every compassionating breast will shrink with no feigned feelings of indignation and pain. The story, in fact, may be summed up in few words. In itself it is sufficiently eloquent, but were it otherwise, I should, by no means, attempt to excite any other emotion than those which must naturally arise from its simple recital. Let it, to the last, be borne in mind, however, that it is one of *fact*, and not *fiction*; that, however improbable, or at variance with our notions of the perfection of English jurisprudence, and the rights guaranteed by it to every Briton, yet, that it is is no more than the narration of circumstances actual in their occurrence and positive in their truth; and which, at this moment, while I write, may be the transcript only of what is again enacting: for while such a law shall be permitted to disgrace the statute book, which of us is not similarly exposed to its diabolical tyrannies, and liable to fall a victim to every atrocious passion which finds a refuge in the human heart. The subject of my narrative was an individual in a very humble sphere of life, in fact, was a *poor* man; and, in stating this, it is not necessary to add how completely dependant he must have been on the preservation of his character. To him, a good name was what the inheritance of fortune is to others; it was even more, for it comprised his *all;* and, as such, he cherished and clung to it with a fervour proportioned to its worth; his whole life, consequently, had been free from imputation; none had dared to cast the shadow of an aspersion upon it, and amidst even his poverty

this man presented a model which carries with it a deep and salutary lesson. So far from deserving reproach, the most disinterested have been prompted to pass very high encomiums on his merits, and his conduct had been so constantly unimpeachable, that not one instance could be adduced in which it had ever been impugned. This was the individual whom calumny selected as her victim; this is the individual on whom despotism exercised her base and tyrannical caprice; this is the individual whom perjury, also, added her efforts to consign to infamy and ruin; on whom a judge deemed fit to wreak the expression of his insolent and mad disdain, and (as if these were not sufficient) to wrest an absurd law as an instrument to perpetrate the last outrage of mockery and scorn. I leave to the sequel, however, to attest the accuracy of these observations; in the mean time I proceed to the recital of circumstances. Blake was at this time in the service of government, and had been so upwards of *twelve years*, employed by the Post Office as a mail-coach guard. On the occasion to which this narrative refers, he was travelling from Exeter to Plymouth, *not on duty, not in his uniform of guard, but in plain clothes; an invalid, and a passenger.* These facts are necessary to be attended to; they appear, probably, irrelevant and trivial, but it will soon be obvious why they should be especially commented on. Blake, for some time, had been, and continued to be, under medical care—his health was very much impaired, and the cold and fog of the midnight air was no very reasonable remedy for restoring it. A lady was the only inmate of the coach; it afforded, consequently, ample accommodation; and Blake availed himself of what any other person, under similar circumstances, would have done, the guard's permission to travel inside. Now, will any one believe, will it be credited by any, that a

man, who, during his whole life, had been most blameless, most inoffensive, most singularly free from the imputation of offering the slightest wrong, insult, or injury, to any; who, on the contrary, had constantly won the good grace and favor of all, by a uniformly respectful and obliging demeanour, as well as by his unblemished and upright character, should, without the most remote reason, the least possibly to be imagined ground or motive, on entering this coach, have tendered an insult to an individual—an individual who was a stranger to him—an aged female—one whose spirits might have been supposed to be borne down by fatigue, exhaustion, and domestic affliction?—Will any one, I ask, believe—will it appear rational, that this man, such as I have described, and under the peculiar circumstances I have stated, should have so far forgotten his usual disposition and nature, as wilfully, wantonly, madly, I might add, insult an old, unattended, solitary female? The instantaneous view of such a charge, would it not carry with it its own refutation? I appeal to any one, possessing the usual faculties of thought and discrimination, whether, on the very outset, such an allegation would not be deemed stupid, absurd, and false? Yet—but I break the thread of the story. Blake, as I have given the reader to understand, entered the coach; he remained in it for the period of *five minutes—credat Judæus!*—in this period,—reader, mark, in a period of *five*, possibly scarce *five minutes!* he is charged with the commission of an offence—an offence, why should I stop to describe its *nature*, when its *effect* was at once to damn his character, and throw him without a resource for his very subsistence—pennyless upon the world! Blake, till the moment of entering the coach, was unconscious that it contained any passenger, but on perceiving a lady to be its occupant, cautiously guarded

against the mere possibility of offering her any molestation. He had been studious even, that in adjusting a handkerchief round his head, his doing so might not cause her any disarrangement; wherefore, what must have been his astonishment when he observed her, with a sudden effort, pull down the window, and inquire, with strong symptoms of displeasure, if she could be accommodated on the outside. Blake instantaneously, and with the quickest sense of propriety, expressed a hope that he was not, but solicitous to know if he were, a source of embarrassment to her; when the lady, prompted by a sudden and unaccountable burst of indignation, replied "Certainly, yes." On which, Blake at once alighted, indignant, undoubtedly, as every person would be, at being unjustly supposed the cause of offence to one, whom, on the contrary, he had exerted himself to guard against even accidental annoyance. Before, however, closing the coach-door, Blake, mentioned the circumstance to the guard, requesting him also to inquire in what manner he could possibly have proved offensive; but the surprise, as well as curiosity, of both, was destined to be only the more excited, as the lady, persisting in offended pride, indignant doggedness, or any thing else it may be designated, declined to give any candid or coherent explanation, and desired, in no very mellifluous or soul-melting tones, the door to be closed, or to use her own words, authoritatively vociferated, "*Shut the door—shut the door.*" The coach-door was accordingly immediately closed, and the lady abandoned to that solitude she so heroically exerted herself to enjoy. That she manœuvred successfully, there is no question; that she had any right, in a public conveyance, in a stage-coach, open to general access, to consider herself so far privileged as to dictate terms to one, who, of course, under the circumstances, was her

fellow-passenger and equal, will admit of further argument. If the interior of a coach was to have been considered a *sanctum sanctorum*, because the lady of a Captain Pilfold was its occupant, why should not a less inappropriate mode of travelling have been resorted to, than, of all others, a common public stage coach? But,

"Foolery, Sir, does walk about this orb like the sun."

It would be superfluous to exhaust my readers' attention on a point so utterly despicable and vapid. The airs of aristocracy are worthy of that void of feeling, dignity, and intellect whence they emanate; but, it is fortunate, they are at times destined to enjoy the reaction of that contempt it is their nature to exercise. Blake resumed his seat on the box, and whether Mrs. Pilfold became the object of ridicule to his companions, may be matter of surmise, I have, at least, no evidence to demonstrate that she was so; that she deserved to become such, the moral conviction, with which every one must be impressed, will be sufficient to determine. Time flew, the journey approached its termination, and the person whom accident has made my heroine was left to her meditations until the coach arrived at Plymouth. Here the perfect decorum and propriety of Blake's conduct deserves further comment. Immediately he applied to the Proprietor of the Hotel, who was also Mail contractor, hastily describing the motive for doing so, and advancing with him to the coach-door, raised his hat, and respectfully solicited to be informed in what manner she imagined he had offended, observing, that he was accompanied by the Master of the Inn, who would attend to any complaint she would allege against him. Mrs. Pilfold's indignation rose to its previous height; she would give no interpretation of the mystery in what she had been so cruelly offended, no clue even

to its solution; but, with that "beautiful disdain," as the poet says, which she must have taken extraordinary pains to bring to such perfection, remained stedfastly silent, and but for the order "high and hoarse,"—*Shut the door; shut the door*—might have been taken for the marble of Pygmalion's adoration, ere Jove had breathed over it the light of life. The affair being wrapt in this profound mystification, to what alternative could Blake resort? He had assiduously endeavoured to discover the cause of his offence, and for which, had it been actual, he was ready to atone in every necessary manner. What more was to have been demanded of him, or to what greater lengths could a man, possessed of feelings which do honor to the human heart, have gone? The mean petulancy of Mrs. Pilford's conduct can require no further illustration; but something may be added on the score of her imbecile inconsistency. On descending from the coach, in what manner will it be supposed she manifested her displeasure to the individuals who, had the offence been *real*, ought in justice to have been deemed its authors—the coachman and guard: not only did she give them the *usual* gratuity, but what, in amount, considerably exceeded it, and what was ten times more strikingly glaring, even with the recollection of all the alleged insult to which they had exposed her, expressed her thanks for their attention in a manner at once marked and emphatic. To what would it be possible for the most inventive fancy to give such conduct likeness or similitude? In the first instance, to take offence at what she could give no explanation of—then, as a mode of shewing her indignation, to reward the very men who, had she really suffered insult, were the authors of it, surpasses, in its features of monstrous irrationality, every thing that was ever heard of in the annals of man or woman.

But Mrs. Pilfold's history is not as yet *quite* unfolded. The secret which gives the story its true tone and colouring I have not yet revealed. Mrs. Pilfold arrives at the Hotel, orders apartments, and a restorative for the fatigue she had undergone, in the shape of a huge goblet of brandy and water! On leaving Exeter, I should have observed, Mrs. Pilford had recourse to the self same omnipotent cure for the heart ache, and "the thousand natural shocks that flesh is heir to;" from which, having stated the bare facts, I shall leave it to the reader to deduce conclusions. In these facts, however, we may perceive a clue, perchance, to some of the more extraordinary passages with which my narrative abounds; to the unintelligible something at which, in the first place, its heroine took offence; to the pertinacity and obstinacy with which she clung to her determination, of giving no explanation as to the cause of that offence; to her condescension to the very persons on whom rather, she ought to have visited her profound displeasure; and to subsequent events, with regard to which it now remains for me to afford a moment's attention. With the Poet I may exclaim

> ——— "The charm dissolves apace,
> For, as the morning steals upon the night—
> Melting the darkness, so their rising senses
> Begin to chase the ignorant fumes that mantle
> Their clearer reason."

Precisely thus was it in the case of Mrs. Pilfold, for no sooner had the morning dawned, than "a change came o'er the spirit of her dream," and so Mrs. Pilfold sends to Blake, and expresses her readiness to steep the subject of offence in the very waters of Lethe, if he will prostrate himself before her, and evince some symptoms of contrition. Mrs. Pilfold, then, would have actually intrusted herself in, nay craved, the presence of a man

who, in the lapse of five miuutes, had, according to her own deposition, outraged her feelings by the most heinous insult! Unprejudiced reader, pause to digest this important "passage in the dialogue." What could Mrs. Pilfold's feelings have been, or the insult she protested having received? What could have impelled her to such a step;—what but the upbraidings of her conscience, for having committed a gross injustice towards a person who had never, in the slightest degree, injured her? This is the unavoidable conclusion, the inevitable conviction that takes possession of the mind. But, does it conduce to heighten Mrs. Pilfold in our estimation? Scarcely. Mrs. Pilfold must have felt that she was descending to a low and pitiful trickery, that in urging an individual to the confession of what she, in her own heart, knew had never been committed, she was pandering to the basest and most ignoble of passions; that, in her impatience to make Blake own himself to a lie, a fabrication of her own distempered fancy, she was seeking only an excuse for her petulant and odious pride, and an opiate for an error of her own commission. But, depraved as was this invention, it was as impotent as depraved; for it was not likely that either Blake, nor any other man, not absolutely forsaken by his senses, would avow himself the perpètrator of an offence which had never been committed, of which he knew not even its cause or nature, and which it is as clear as any mathematical certainty ever demonstrated, was without existence. Blake scorned the proposition, repelled the solicitation with lofty indignation, and felt proud in the consciousness, that "a clear and unblemished character comprehends not only the integrity that will not offer, but the spirit that will not submit to an injury; and that whether it belongs to an individual, or to a community, is the foundation of peace, of independence,

and of safety." From what has been already exhibited of Mrs. Pilfold's feeling and character, it will easily be foreseen, that having perceived how signally her machinations failed—her pride again revolted, and a *real* enmity was excited in place of that which, even to herself, was known to have arisen from imaginary causes. Blake, accordingly, from this moment, became an object of intense detestation to her, and to persons at all capable of analysing motives the reason of his becoming such will be easily understood. Mrs. Pilfold appears to me, to have been a person singularly destitute of all generous impulse, a person in whose heart only the most mean, and little, and narrow sentiments found refuge, and who, reducing every thing to the standard of her own petty and degrading conceptions, hence naturally was led to hope that Blake would stoop to the ignoble penance she had marked out for him, and thus assuage her own angry and unworthy emotions. Mrs. Pilfold could not have been endued with the faintest traces of that sensibility so much the ornament of her sex, or surely, had Blake been even wanting in common courtesy, she would have endured his presence for a few hours, rather than expose him, an invalid, to the inclemencies of the night. But, revolting and disgusting indeed, must be that idea of self consequence, which leaves the heart barren of every generous and humane sentiment; such a heart can be no gift, and at best is an unenviable possession!

In Blake's refusal to acquiese with her solicitation, Mrs. Pilfold now felt a *real* cause for offence, and at a moment when her mind was a perfect chaos of "pride unrestrained, fury let loose," Capt. Pilfold arrives at the Hotel. Instantly her complaints (no more like Cæsar's wounds, "dumb mouthed,") poured themselves out in a frenzied and impetuous torrent. Capt. Pilfold,

maddened, heaven knows best at what, determined on Blake's ruin, to accomplish which, he writes to his friend, perhaps relative, Sir F. Freeling, accuses an innocent individual of the most insufferable offences, of drunkenness, and outraging the feelings of an unprotected female, and of shameless brutality of conduct; and, in terms of similar vehemence, insists upon this individual's immediate discharge from a post that he had filled during a period of twelve years, with unexceptionable integrity, unexampled vigilance, and in which he had received peculiar reward from his employers, which had served to place his character in a yet higher light. Mrs. Pilfold accompanied Capt. Pilfold *on foot* to the Strand, so that it is worthy of remark, that although her health had been undermined by the shock she had received on the previous night; yet that she was able to walk this distance, and no inconsiderable distance, surely, for one, whose health, as it was afterwards averred, had been impaired from the previous circumstance.

Such is the unvarnished outline of the case. I now proceed to substantiate my charges, first, as to the *unprovoked and vindictive malice of the defendant.* In proving this charge, and all others, I shall abstain from the slightest deviation from fact, and confine myself solely to the consideration of the circumstances as they occurred, and the motives from which they originated. That the charges were *unprovoked,* will appear manifest by a reference to the evidence on the trial, wherein not a single allegation was sustained, and that they were *vindictive, and malicious* is proved by the fact, that on the arrival of Mrs. Pilfold on board the *San Josef,* the morning after the offence is said to have been received, she was (as the surgeon who attended her proved in evidence) " in a state of excessive

mental agitation and delirium, and other symptoms of very considerable fever ; that she had frequently moved herself suddenly from one side of the bed to the other, and uttered I could not tell what *delirious conversation!*" yet, from such conversation, and at such a time, were materials collected for an inflammatory letter ; and though Capt. Pilfold was assured by the head waiter of the Hotel where the coach stopt in Devonport, that Blake was *sober* on the night in question, contrary to Mrs. Pilford's statements, and though he must have known, from her previous habits, that there might have been a *particular cause* for her inaccuracy, which should have been sufficient to make him pause at giving implicit credence to her account of the affair, yet he replied, " no matter, I shall have them all discharged, drunk or sober !" and, accordingly, wrote a letter to Sir F. Freeling (which letter, even Judge Taunton acknowledged in his charge to be *exaggerated and unjust*,) soliciting Blake's discharge, not from any neglect of his duty as guard (a complaint which the public good might have excused, but which could not for a moment be insinuated, as he was then travelling as a *private individual*), but, from the assertion of his having been drunk and offensive to Mrs. Pilford. Supposing for argument sake, that the allegations were *even* true, could such a letter have been dictated by any but a *vindictive* feeling ? Was not the design of injuring the Plaintiff manifest ? If Blake had transgressed the laws of his country, reparation might have been obtained in a court of justice ; but the Defendant, conscious of his not having done so, meanly and *maliciously* solicits *his friend*, Sir F. Freeling, to gratify the sinister workings of his heart by discarding the unfortunate Blake, from a situation which he had always filled with credit to himself, satisfaction to his employers, and advantage to

the public: and driving him forlorn upon the world, destitute of the means of subsistence, and what was still worse, deprived of his previously unimpeachable character. What but malice could have dictated such a course? What good could have been obtained from it? What vice was to be corrected by it? What justice vindicated? What feeling gratified? What, but a deep and dastardly revenge? For

> "——— You take my life
> When you do take the means whereby I live."

Such is the conclusion which forces itself upon the conviction of every unbiassed mind, supposing the allegations in the letter to be true; but, that they were false has been proved in evidence, and that there could not have been even a reasonable supposition for their truth, must be evident from *the state* of Mrs. Pilfold, her *incoherent conversation*, and the fact of her having stated to a servant of the Hotel in Devonport, that Blake had not even "touched the hem of her garment," and desired her to tell him, that "if he would come to her and apologize, she would forgive him, and say nothing to any one about what had passed." Was this consistent with a feeling of outraged delicacy? If, in the course of *five minutes*, on the previous night, he had so much shocked her by his conduct, why should she, as it were, *solicit* another interview? Why not attribute his offensiveness to drunkenness, and contemn it accordingly; or inform her husband of the transaction, and let *him* seek redress, rather than expose herself to the chance of further outrage, from a person whom she asserted to have wantonly insulted her? Her whole conduct was inconsistent and unnatural, and can be explained only by reference to *the state* she was in, and to which any rational man would have attributed her inco-

herent narrative. But Capt. Pilford becomes incensed, whether at *the state* of his lady, and the consequent exposure or not, may be considered doubtful, his feelings require an object on which to vent themselves, and Blake becomes their victim. Under these circumstances, from what motive could the conduct of Capt. Pilford have proceeded but *unprovoked and vindictive malice?* I pause for a reply.

We now come to my second charge; *the most culpable precipitancy and partiality on the part of the Post Office functionaries.* I shall give names without hesitation, as I coincide in the opinion, that "*measures, and not men,* is the common cant of affected moderation; a base counterfeit language, fabricated by knaves, and made current among fools." I shall not fight with shadows, nor combat vices in the abstract, when I can grapple with the substance, as even my pen may work reformation by exposing the sanctuaries of abuse, and holding up their ministers to public execration.

Sir F. Freeling, on receipt of Capt. Pilfold's letter, desired Mr. Johnson (head of the Mail department,) to write to Mr. Wedderburn, a deputy inspector, to inquire into the transaction. Wedderburn communicated with Blake, who asserted his innocence of the charge, and the coachman and guard also, bore testimony of his having been sober on the night in question. Wedderburn next applied to Capt. Pilfold, after which, he informed Blake, that "if he would write a letter to Capt. Pilfold, and say the charge was nothing but just and true, it should be passed over." This proposal Blake, conscious in his innocence, indignantly, I might say nobly, spurned; for "a man of spirit does not measure the degree of an injury by the mere positive damage he has sustained; he considers the principle on which it is

founded, he resents the superiority asserted over him, and rejects with indignation, the claim of right which his adversary endeavours to establish, and would force him to acknowledge." Blake, however, offered to go on board with Wedderburn, and rebut the charges in Capt. Pilfold's presence. This Wedderburn refused, and made his report to the Post Office; and though no dereliction of duty was alleged, no public or private outrage committed, no impropriety of conduct proved, Blake was immediately discharged, and all further investigation denied him. Was not this *precipitancy*? Previous to the order for his dismissal, Blake addressed the following letter to Mr. Johnson.

TO CHARLES JOHNSON, ESQ.

Sir,—Having been suspended, in consequence of a report being made against me, by a Mrs. Pilford, for improper conduct on the 1st instant—

I beg leave to submit a plain statement of the facts of the case which occurred at the time. Having taken to the mail, at St. Thomas, near Exeter, on the evening before-mentioned, and being on the box-seat, by the side of the coachman, on our arrival at Chudleigh, I alighted from the coach, and went into the bar of the Hotel—when in conversation with Mrs. Petherik, the mistress of the house—on the guard's coming into the bar, I was informed by him that a lady in the coach had been making inquiries respecting me; supposing it to be a joke of his, I did not go out to the mail, or did I suppose there was a lady in the coach, as I did not know but the mail was empty at the time.

I accordingly left the Hotel, and took the box-seat again. On my arrival at Newton, I alighted while the coach stopped —we proceeded to Totness, when I assisted in changing horses, I did not go into the Inn at all. We proceeeded from Totness, and on my arrival at Newhouse, I quitted the coach, went into the Inn, and took a glass of negus. I

returned to the coach, and having taken my former seat, proceeded to the Fawn Inn, where I had another glass. On arrival at the Tealampton Post Office, I got off the box. On opening the near-side door, to get inside, I saw a lady—I took every precaution, in taking my seat, and having taken off my hat, I placed a handkerchief to supply its place.

We had not proceeded a mile, before I saw the lady remove from the hind seat to the front, and then observed her take the pulley of the glass, and lifting it, slide down the window, and put her head out, and said, "Coachman, stop."

The coachman immediately pulled up, and said, "What is the matter, Ma'am?" Her reply was, "I won't ride any further inside." The coachman then asked again, what was the matter, and she made the same answer.

I then said, "I beg your pardon, Ma'am; am I offensive to you?" Her reply was—"Yes, certainly." I immediately let the glass of the door down, opened it, and got out of the coach. While holding the coach door in my hand, I told Walters, the guard, "the lady objects to my riding inside," and requesting him to ask the lady "if I had offended her, or insulted her in any way."

Walters then asked her if I had offended her, or insulted her, and if she had any thing to complain of. Her answer was, "Shut the door." He then asked her again, and received a similar reply. The distance I had then rode inside of the coach was just *a mile.*

I then got on the coach-box again, and proceeded to Plymouth, on our arrival there, Mr. Morris, who keeps the Hotel, the waiter, and the porter, were at the front door. I then alighted from the coach, and asked Mr. M. to step to the coach-door. I then opened the door, and, taking off my hat, said, "I beg your pardon, Madam; this is Mr. Morris, who keeps this Hotel, and if you have any complaint to make respecting the person who got in the inside, he will attend to it." Her reply was, "Shut the door." Mr. Morris then said, "He did not know what it meant, but if

she had any thing to complain of, he would attend to it." She then again said, "Shut the door." I did so, and took the box-seat again.

On our arrival at Devonport, I left the coach, taking with me my coats, and put them into my own coach to go to work the next morning. I then saw the lady pay the coachman and guard—thanking them for their kind attention, and wishing them a good night.

As the lady did not make any complaint, I left the Hotel immediately, and repaired to my lodging.

Just before leaving Devonport in the morning, I was informed by the chamber maid, that the lady had complained to her of improper language having been made use of to her by me. The expressions made in the complaint lodged against me, and read to me by Mr. Wedderburn, I beg leave most positively to deny. I offered Mr. W., at Devonport, to await their pleasure to make my defence to the accusation, but this was not allowed me.

I beg to state, that having filled the situation of mail guard for many years, I have never been known to be drunk, abusive, or inattentive; but have always made it my study to please persons concerned; and I have never before, had a report of the sort laid against me.

I am, Sir,
Your most obedient Servant,
W. Blake.

Exeter, 18*th May*, 1830.

Will any one who reads this letter say, that a man who had been drunk, could give such a succinct and circumstantial account of what had *really* occurred? It is absurd to suppose it.

The following is the letter for Blake's dismissal:—

General Post Office, 30*th May*, 1830.

Sir,—You will inform Blake, that he is dismissed by the Post Master General, for his brutal conduct to Mrs. Pilfold, whose complaint is entirely credited at this office, notwith-

standing his denial.* I shall write to Mr. Elliott respecting the coachman; I fear Walters will be dismissed too.

I am, Sir,

Your obedient Servant,

C. Johnson.

Mr. Wedderburn, Exeter.

P. S.—*Blake must give up his uniform.*†

After his discharge, Blake applied to the Post Office for an investigation into the transaction, when it was intimated, that he should be reinstated, *if he would ask pardon for his offence.*

"For in the fatness of these pursy times
Virtue itself, of Vice, must pardon beg."

This, he again refused, stating, that having committed no offence, he should make no apology. The guard, who was *on duty*, to whom any blame should apply, if misconduct had occurred with his permission, having been superseded, was reinstated, on making the required *amende* to Capt. Pilfold, while Blake was left destitute and forlorn.

"Who steals my purse, steals trash; 'tis something, nothing,
'Twas mine, 'tis his, and has been slave to thousands;
But he that filches from me my good name
Robs me of that, which not enriches him,
And makes me poor indeed."

A petition, signed by the following gentlemen—

Sir Thomas Dyke Ackland, Bart.
Sir Lawrence Palk, Bart.
Sir John Rogers, Bart.

* La raison du plus fort est toujours la mellieure.

† In justice to the Post Office, I must explain, that the Postscript is an interpolation by Mr. Wedderburn, who, though he might have had an aversion to be in Blake's *coat*, appears to have been rather desirous to secure the proceeds of its sale.

Major Webber.
William Lee, Esq. Clerk of the House of Commons.
Rev. J. Woolacom,
William Arundel Harris Arundel, Esq.
W. Webber, Esq.

who knew Blake's excellent conduct, and solicited an investigation on his behalf, from the Duke of Manchester, then Post Master General, was treated with silent contempt.

> " You might as well go stand upon the beach
> And bid the main flood bate his usual height;
> You might as well use question with the wolf,
> Why he hath made the ewe bleat for the lamb;
> You might as well forbid the mountain pines
> To wave their high tops, and to make a noise,
> When they are fretted with the gusts of heaven:
> You might as well do any thing most hard
> As seek to soften that (than which what's harder?)
> Their obdurate hearts!"

Application was made for a copy of the letter containing the charges; this was refused, though Mr. Johnson stated to the writer of this preface, that *Blake always bore a most excellent character, that the present complaint was the first ever alleged against him, and that he considered him to be the best guard in the service;* yet no copy of the letter would be given. This, alone, might be considered sufficient proof of partiality, but the sequel will establish *most glaring culpability.* Blake having brought his action, the record was obliged to be withdrawn, through informality, from not being able to procure the letter, or a copy of it. By stratagem, however, sufficient extracts were afterwards obtained to amend the declaration, and the Defendant was about to let judgment go by default, when it was intimated to his agent, *that the expense of his defence would be*

defrayed by the Post Office, who were determined to "trip up the Plaintiff's heels," and give every opposition to his claims. To the claims of a man, seeking only the restitution of his character, of which *atrociously* they had deprived him. The injured may, forgive the injurer, never! They dismissed him without any just cause, for he had neglected no duty, betrayed no trust, and was not even on active service when the impropriety was alleged to have taken place; consequently, in taking cognizance of the conduct of a man *off duty*, who had faithfully discharged the functions of his office for *twelve years*, their conduct was extra-official and tyrannical; in refusing him an investigation, it was infamous and cruel; but in withholding a copy of the letter containing the charges against him, and urging on a disgraceful defence,*—language fails in its designation; it was worse than base and villainous. I feel that I have triumphantly established my charge of *most culpable precipitancy, and partiality, on the part of the Post Office functionaries.* The terms are, in fact, too lenient, but I use them advisedly, and I am only restrained from indicting certain parties for a *conspiracy*, in consideration of some, whose places depend upon their silence, but to whom I shall, if necessary, appeal in the name of justice and humanity, to come forward and expose the depravity of their official superiors.

My third charge—*the basest conspiracy of witnesses*, now becomes the subject of discussion.

> " Oh heaven, that such companions thou'dst unfold,
> And put in every honest hand a whip,
> To lash the rascals naked through the world,
> Even from East to West.

* Mr. Peacock, (their Solicitor,) if he will, can disclose the " secrets of the prison-house," as well as the nature of his own *charitable* suggestions.

It is painful to rake up disgusting details of villany, therefore I shall state, as briefly as possible, merely a few facts, sufficient, however, to establish my charge.

Mr. Gilbard (Defendant's Solicitor), whose talent in drilling witnesses is not the *least* of his professional acquirements, though suffering all the horrors of repletion, from his incapability (even when assisted by an agent from London), to digest malice *in law*, and malice *in fact*, succeeded in mustering a formidable array of witnesses, to which he may be said to have acted the part of fugleman.

Mr. Charles Johnson (Superintendant of the Mail department) stated (after appearing to consult some documents, as it were, to make assurance doubly sure,) that Blake entered the service of the Post Office on the 20th of January, 1824, whereas he must have known he had been mail-guard from the year 1818.

Blake has an authority from Mr. Johnson long previous to 1824, without which he could not be permitted to perform the duties of guard; and even received a reward from the Post Office, through Mr. Johnson, in 1822.

When asked to Blake's character, Mr. Johnson said, he "could not speak as to his individual character;" though he had previously told me, that "*Blake always bore a most excellent character, and was the best guard in the service.* The hoary head ceases to command veneration, when the mind turns with disgust from the vices of the heart.

Mr. Wedderburn (Deputy Inspector). The contradictions in the evidence of this witness are manifold. He first stated, that he took down the answers of Blake and Mrs. Pilfold when he applied to them; then, that he put down *no* answers on board the ship, nor when he applied to Blake; next, that there was no writing but

the report he had forwarded; and upon Judge Taunton observing his inconsistency, swore that the report was a duplicate copy of the answers which he took down when he examined Blake and Mrs. Pilfold!! Further comment is unnecessary; so much for Wedderburn.

Mr. SLYFIELD and his *cidevant* waiter, JOHN MITCHELL, *par nobile fratrum* (a pair of scoundrels,) the former a coach proprietor swore, that neither Blake, nor the other guard, nor coachman, were sober when the coach stopt at his house; yet, though he knew there was an unprotected female passenger, did not object to their taking brandy and water; previous to trial, he said Blake was quite sober. Mitchell was not present while the coach stayed, but he afterwards offered his services as a witness to Blake, who told him, if he knew any thing and would tell the truth, he should thank him; but Mitchell not liking these terms, consulted the *learned and unfathomably profound* Gilbard, with what result may be seen in the minutes of evidence, "Faith, here's an equivocator that could swear in both the scales against either scale."

Mr. MORRIS could not deny that he told me distinctly, that *Blake was sober*, but he swore the contrary; his shame scared away falsehood, though his virtue failed to elicit truth.

Nullane perjuri capitis, fraudisque nefandæ pœna erit.
Shall there be no punishment of a perjured head and of wicked fraud?

"O, mischief, thou art swift to enter
In the thoughts of desperate men,
I do remember an apothecary."

Mr. CORNELIUS HIPPOCRATES TRIPE, ("What ho, Apothecary!") The substance of this sage's evidence, so far as intelligible to the Bench, or Bar, (neither Schrevelius nor Johnson could supply a glossary to his thunder-

thumping technicalities) was, that though Mrs. Pilfold had undergone great fatigue from her journey, and anxiety from her daughter's illness, yet he had never seen effects like those she experienced, produced by such causes; but, as a *scientific* man, was able to connect her illness with the *treatment* she had suffered!!! Bravo! Tripe! never knew fatigue and anxiety to produce fever and all its attendant consequences! But, reader, mark the equivoque, *treatment*, it is not stated whether it was *Blake's treatment*, or *Tripe's treatment*, that produced such calamitous results, the latter conclusion is certainly the more rational, and at once solves the mystery. Oh Tripe, Tripe! what school of surgery is honoured by a disciple so distinguished! You may, indeed, exclaim with the Poet—Exegi monumentum ære pereunius, the *brass* of Tripe must be *eternal.*

E. Lyne.—This witness previous to the trial, in conjunction with the *talented and honest* Gilbard, laid a plot to entrap Walters, the guard who was on duty, to an admission that Blake was drunk; having accordingly sent for him on pretence, that he was about to use *his* "*influence*" to have him reinstated, gave him some spirits, and commenced to condole with him on his misfortune in having admitted Blake inside the coach, when he was in a state of intoxication; but, on Walter's replying that Blake was perfectly sober; he said, "you need not say he was drunk buf half sea's over." On the trial, this witness attempts to avoid a direct answer to the question, if he had sent for Walters? by answering "I did not know him;" but it may be seen as his examination proceeded, his scruples vanished.

Hic niger est hunc tu Romane caveto.

Miss Ellen Pilfold.—*Oh mater pulchra,—filia pulchrior.* I shall merely observe, that Jane Gregory, alias

Daddan swore, that there was no one present on board the ship, when Walters came to apologize, but Mrs. Pilfold, Walters, and herself; however, Miss E. Pilfold swore that she was also present. The feelings of the latter, towards Blake, may be understood when I inform my readers, that some time after Blake was obliged to withdraw his record on the first trial, on meeting him in the open street of Exeter, with *hereditary propriety, and lady like delicacy*, she laughed aloud, and clapt her hands exultingly in his face; but, on perceiving that she was observed by a gentleman present, withdrew in confusion.

I am unwilling to dwell longer on the baser instruments of crime, having said sufficient to prove, that so much prevarication, inconsistency, and contradiction of witnesses could have originated only in a *conspiracy* of the foulest character. I may have appeared light in my comments, but my mind loathes the task of penetrating, in detail, the tortuous and latent recesses of vice, and dragging their varied polutions into light. I shall proceed to strike at higher quarry, without whose pernicious sanction, and direction, the poisoned talons of the meaner brood, would have been disarmed of their venom. In reverting to this part of my subject, the mind almost doubts the reality of the facts to be detailed, and can scarcely believe it possible, that a judge of the nineteenth century in England, the nursery of justice, should so far prostitute the purity of his robes, as to afford protection to malice, whilst aiming its deadly shafts at the breast of innocence. Such, however, is the melancholy truth, and I approach it with that solemn indignation, which, rising above all minor feelings, seeks only to vindicate the majesty of justice, and punish any, whose conduct in its administration is calculated from ignorance, prejudice, or passion, to bring contempt and

odium upon its principle. In the calmest temper of mind, and fully impressed with the grave responsibility of my task, I proceed to the analysis of a *charge* which I have designated, and shall prove to be, the *most injudicial, prejudiced, absurd and flagitious that ever disgraced a judgment seat.*

At the opening of the trial, an attempt was made by Sergeant Coleridge, to prevent the letter being read in evidence, as he contended (with what legal perspicacity will be seen in the sequel) that it was a privileged communication, which, having been properly over-ruled by Judge Taunton, the letter was read, and the trial proceeded till Mr. Follett, on the part of the Plaintiff, rose to reply; shortly after which, and during Mr. F.'s address, Judge Taunton rose from the Bench and retired to an inner room, taking with him—proh pudor!—*the daughters of the defendant, and the sage and sonorous Cornelius Hippocrates Tripe*, their Æsculapian attendant!! Refreshments were provided, but what further passed, during this *honorable* retirement of the Judge, has not transpired; but on his return to the Court, some new and extraordinary lights appeared to have dawned upon him. In his charge to the Jury, he discussed the law of privileged communication, which our readers may remember, he had previously disposed of in reference to the letter, as follows:—

"The occasions to which I allude, as being *primâ facie* excusable, principally on account of the cause of speaking, occur in the case of a man giving a character to a servant; or confidential advice or communication to public officers.

"Now these occcasions of making communications are such as furnish *primâ facia* an excuse of the allegation itself. In these cases, it is necessary to shew, in order to rebut the *primâ facie* excuse, that the party was actuated by malice.

"Now, I am of opinion, and I give it to you as my opinion, in point of law, that the present is an occasion in which the communication would have been excusable, provided the writer was not actuated by *any malicious motive.*"

"But is this law?
Aye, marry is it, Crowner's quest law."

In the case of Patterson *v.* Jones, already cited, Lord Tenterden said, "I thought it was a question for the Jury, whether the communication contained in that letter was made by the Defendant *bona fide*, acting under a belief that he was discharging a duty which he owed to the party who was about to take the Plaintiff into his service, or whether it was made maliciously, with an intention of doing an injury to the plaintiff."—The Jury found it was made maliciously, which entitled the plaintiff to a verdict.

Lord C. J. Tyndal, in the case of Rutherford *v.* Evans, said in his charge to the Jury, "As a general principle, if a person thought fit, by letter or otherwise, to make statements injurious to the character of another, that injured party *was not obliged to bring actual proof of malice* to support his claim to compensation for the wrong sustained."

It has already been shewn, that in case of a man giving a character of a servant, unless when called upon so to do, or even if he do any thing to invite inquiry, the communication is *not primâ facie* excusable, as a privileged communication, and, therefore, it is not necessary to rebut the *primâ facie* excuse, by proving that the party was actuated by malice, as Judge Taunton has laid down; but not as he felt to be correct, for immediately before, he had explained—

"Where the libel on the inflammatory words, that is to say inflammatory language, have been used, be it either in

writing, or by word of mouth, to the injury of another person, the law implies malice; that is, the law implies the act by the effect."

"It doth appear you are a worthy judge,
You know the law, your exposition
Hath been sound."

"Tarry a little;—there's something else."

As if to shew "in what a labyrinth of nonsense does a man involve himself who labours to maintain falsehood by argument," he goes on to say—

"If the communication was made with a belief, at the time, of the truth of the statement—not a groundless belief —not a silly, unfounded belief—a belief for which there was reasonable and probable cause—it would, in my humble judgment, *be an innocent, harmless communication*, which the defendant would not have been wrong in making."

"O, upright judge! O, learned judge!"

And again he says—

"That if this communication was made by the Defendant, with every probability of its truth, and on reasonable grounds, yet, although not strictly true, that would be a justification for making it."

Now, with all that deference which an humble solicitor should feel towards a learned judge, I may be permitted to say, that the probability of its truth, though not strictly true, so far from being a justification, that even *if strictly true*, an action could be maintained, as it must be evident, that the letter could *not* be considered as a *bona fide*, or confidential, communication to public officers; the outrage alleged being merely of a private nature, totally unconnected with *the duty* of the Plaintiff, and the letter being written with a manifest intention to injure him, his dismissal having been ex-

pressly solicited in it, and it having been written (as Judge Taunton himself admitted) with "*passion and exaggeration.*" Therefore, even if true, the communication was decidedly an *officious* interference; and having caused injury to the Plaintiff, he was fully entitled to compensation, in whatever motive it originated, as the law, in the words of Judge Taunton, "implies the act by the effect."

"Is that the law?"
"Thyself shall see the act,
For as thou urgest justice, be assured
Thou shalt have justice more than thou desirest."

So much for the law of the case, in the mazes of which, Judge Taunton so strenuously laboured to confound the Jury. Having previously ruled that the letter was *not* a privileged communication, I hold that it was *extrajudicial* and *unprecedented* in a judge to submit, as it were, to the decision of a jury, points of law which he had officially and properly determined at the outset. But Judge Taunton, not content with this, absolutely converts his charge to the Jury into an appeal for the defendant. He stated, in direct contradiction of the evidence.

"Now, whether the Plaintiff was dismissed in consequence of the letter of the Defendant, or whether he was dismissed in consequence of the report made by Wedderburn, we know not; whether the charge made by Wedderburn is justly to be imputed the cause, or whether the Defendant's charge, we are in a very considerable state of uncertainty."

And again he says,

"There is no proof of Capt. Pilfold's letter having been the cause of his dismissal."

Now, on reference to Mr. Johnson's letter, which was

read in evidence, it will be perceived, that "*Blake is dismissed for his brutal conduct to Mrs. Pilfold, whose complaint is entirely credited at this office.*" After the letter, from which this extract is taken, having been read, could the cause of Blake's dismissal be any longer doubtful? Whether it were the statements contained in Capt. Pilfold's letter to Sir Francis Freeling, or Mrs. Pilfold's subsequent statement to Wedderburn, and his report thereon, which caused Blake's dismissal, makes no difference; there can be no doubt that these statements were the occasion of the injury, and for such Capt. Pilfold was *solely and completely* responsible. Wedderburn may be naturally supposed to have reported in corroboration of the statements contained in Capt. Pilfold's letter, so that there would be as much justice in holding a magistrate responsible for the perjury of a deponent, as to throw the onus of these statements from Pilfold to Wedderburn. The ingenuity of the sophistry merely throws the injustice of the insinuation into greater relief. Bear in mind, reader, that it is not the Defendant's counsel who urges these points in his appeal; no, it is the Judge, in his charge to the Jury. But another extract will throw more light on the subject.

"Now, it is not necessary to go into the origin of this action. If the Plaintiff bears so good a character, if he has conducted himself so well as guard of some of these coaches that there has been a subscription for him to bring this action here, I am *sorry to hear it, because I consider it unjustifiable.*"

This is certainly candid, and at once explains the motive of this most extraordinary charge. It is scarcely possible to believe, that when a malicious attempt had been made to accomplish the ruin of an humble individual, who had no property but his character—when

not only redress, but even inquiry, was denied him by his employers, who should have at least afforded him justice, if not protection; that a judge should so far forget the justice and dignity of his office, and the feelings and sympathies of a man, as to avow his *sorrow*, that the previous conduct and character of the unfortunate individual had been such as to excite those who knew him to assist in procuring an investigation, and placing his character and conduct in their true colours, by appealing to the last mode of redress left open to him—the laws of his country; and this appeal made too, as his Couusel stated, *not* with a view to recover damages, but *solely* to clear his character; it is incredible, were not the fact on record, as a specimen of Judge Taunton's *impartiality*. But after a few more extracts from this infamous charge, surprise must give place to indignation and abhorrence, that the sacred fountain of justice should be defiled by such pollutions. Being unable to cast a shade of imputation on Blake's previous conduct, he endeavours to make him appear a participator in the misconduct of others, and even assumes postulates which were not only *not* substantiated, but were distinctly refuted by several of the witnesses. He continued—

"But, gentlemen, whatever may have been his former conduct, there are some circumstances in the present occasion that were unpardonable. The conduct of all* these parties, on the same occasion, was unjustifiable. It is not to be borne, that because they choose to take him up, they are to drink at all the public-houses where they stop—that he is to treat the coachman and guard with as much as they like to drink, at all the houses on the road, is most intolerable; it is also most intolerable, that this man, who was a stranger, should be permitted, by the regular coachman, to

* Is Quere—Mrs. Pilfold included?—*Printer's Devil.*

take the reins and drive, that he should be allowed to drive horses that he was not accustomed to drive, by which the lives of his Majesty's subjects might be endangered, and his masters be exposed to make pecuniary compensation to every person injured."

Now there is no evidence, even attempting to prove that they drank "at all the public-houses where the coach stopt," much less that Blake treated "the coachman and guard with as much as they liked to drink, or were inclined to drink, at all the houses on the road." And if Blake were permitted to drive, the fault was that of the regular coachman and guard, and *not* of the "*stranger*," as Judge Taunton insidiously terms Blake, in order, it would seem, to exaggerate the impropriety. But Blake, so far from being a "stranger," was, and is well known and admitted by all the coachmen and guards to be what, in professional language, is styled "*the best whip on the road.*" But hear the Judge in continuation.

"It was also most improper conduct in this coachman or this guard, who have the management of these matters, to permit a common mail-coach guard to get inside—to admit him in common dress—for there is no difference, whether he is admitted inside, in his usual livery, or in coloured clothes. If admitted to the inside of a coach, in which a lady is riding, who has paid her regular fare as an inside passenger, it is an insult to her—for a lady, who is the wife of an officer in his Majesty's navy—it is an insult to her to have a common mail-coach guard put inside with her, even for a short space of time. This is the evidence on both sides, for she actually appealed to the coachman to know if there was room on the outside, and if the Plaintiff. *Mr. Blake*, had not got outside the coach there is every reason to believe she would.

"Now all these circumstances prove conclusively to my

mind, that there was very improper conduct on this occasion —both in the regular coachman and guard, and also in the *gentleman* guard on this occasion."

——"Untaught knaves—unmannerly
To bring a slovenly or unhandsome corse
Betwixt the wind and his nobility."

However appropriate such language might appear, when uttered by a master of ceremonies, it is certainly not very decorous nor politic when coming from a judge. Even, although he should by his decisions make the people feel the line of demarcation, it is neither prudent nor safe to recognize from the bench a distinction between the rich and the poor; to draw subtle and erroneous shades of difference, as if the lady of an officer and a mail-coach guard were of a different and peculiar species, not subject to the same laws, but opposite in their classification, as well as in their sex. Such principles and opinions are not indigenous in England; and if Judge Taunton feel disposed to divide the family of man into varieties, species, classes, and orders, he will not find this soil propitious to developing the phenomena of specimens, nor the British people favorable to the prosecution of his inquiries. At least he will not be permitted to convert a court of justice into a menagerie;* though if he were to retire from the bench, perhaps in his *honorable leisure*, the ingenuity of Taunton might rival the efforts of the indefatigable Buffon, or the researches of the more recently lamented Cuvier. His talent in definition is made apparent at the conclusion of the last extract, wherein he sarcastically distinguishes

* Judge Park, at the last Exeter Assizes, compared the Court to a "Bear Garden;" it would appear that Taunton's theoretical hints are about to be reduced to practice.

Blake, as the "*gentleman*" guard. He might better at once have exclaimed—

Odi profanum vulgus et arceo—
I loathe the profane rabble, and avoid them.

To a less prejudiced mind, the consciousness of doing an injury would have spared the aggravation of insult; but Judge Taunton is not balked at trifles, he attempts to ply wit versus law, and has safely secured himself from the possibility of being ever quoted as an example of the union of genius and morality in a lawyer. It is extraordinary, however, that during this lengthy and learned oration, the real cause of Blake's having been admitted inside, appears to have escaped the recollection of this righteous and bountiful retailer of quiddities, as no allusion whatever has been made to Blake's illness, nor the cold, fog, and damp of the night air, against which his medical attendant (Mr. Rutter) had ordered him to take particular precaution.

Judge Taunton, however, was particularly careful that the fact of Blake's having been in *plain clothes*, should not be considered as any mitigation of the alleged offence, by audaciously asserting, that it made no difference, whether he was in plain clothes, or in the livery of guard; in any case, it was an *insult* to obtrude himself inside the coach, in *the presence of Mrs. Pilfold!!* The assurance of Tripe himself could not exceed the impudence of this assertion. Judge Taunton ought to have been aware, that all officers, civil, military, and naval, comissioned or non-commissioned, are recognised as such, even by their subordinates as well as others, *only* when habited in the livery of office; but the aspen sensitiveness of Mrs. Pilfold, it appears, felt at once the blighting intrusion, and not only shrunk from the

contact, but absolutely pined in the atmosphere contaminated by the loathed presence of one who had previously worn the noxious livery of guard so much so that Judge Taunton, and the redoubtable Tripe, *believed her illness to have been occasioned by it.* "Oh! shame, where is thy blush?" If such dreadful results are to be anticipated from the noxious collision, it would be well if those to whom Fate has allotted "a more splendid trough and wider sty," would forbear from intruding on, or at least, in charity, from monopolizing, the Common of the less fortunate; a stage-coach is certainly ill adapted for the transition of such delicate non-descripts.

Towards the conclusion of his address, Judge Taunton was either confounded in the absurdities with which he designed to bewilder the Jury, or appeared desirous of assuming the virtue of impartiality, though he had it not, when he said, "Whether he was in a state of intoxication or not, there is no certainty." In this he might have been correct, but why then, in the opening of his charge, did he assume Blake's "*drunkenness*" as a fact proved? whereas perjury itself, with all its hardihood, backed by the ensnaring ingenuity of Counsel, had not dared to assert more than that "he had had enough,', or "was half seas over." I shall trouble my reader with only one more extract.

"If Capt. Pilfold, as the husband of this lady, wrote the libel complained of to the Secretary of the Post Office, there certainly is, as I have already stated, no proof that it was that which caused his dismissal; as I have already said, there certainly is no proof for a great part of it, yet, if you believe the communication was made *bonâ fide* under a well grounded belief, I mean a belief that rests on reasonable and probable causes, then this letter is not the subject matter of action.

"If you believe it was made in bad faith, that the cause was a known improbability, entertained without sufficient grounds by the Defendant, that will furnish circumstances from which you will infer that the Defendant acted with *malicious motives*, and in that case undoubtedly, this action is maintained."

Can any thing surpass this in absurdity? Judge Taunton must have known that the injury received was *alone* sufficient to maintain the action of malice *in law;* and, therefore, the question of malice *in fact*, or *malicious motive*, was to be considered by the Jury only in reference to the aggravation or mitigation of damages, and not to the finding of the verdict. After ruling, at the commencement of the trial, that the letter was not a *privileged communication*, and after opening his charge by stating, that in such cases, "*the law implies the act by the effect*," and, therefore, if injury were received, it was sufficient ground for an action without the inference of *malicious motives;* yet he, not only in opposition to the evidence adduced, asserts the cause of Blake's dismissal to have been doubtful, but even in contradiction of himself—of *his own definition*, alleges that *malicious motives* must be inferred, in order to maintain the action!! Such monstrous proceedings are a disgrace to the Bench. I repeat, emphatically, that *the Bench has been disgraced by Judge Taunton*, and if such gross perversion of law and justice be passed over by the other Benchers, without inquiry and redress, they must participate in the odium of his delinquency. However, I shall take care that they shall not remain ignorant of his gross misconduct, as I intend to forward to each, individually, a copy of this pamphlet. I call on Judge Taunton himself, *if he dare*, to contradict my statements; or, *if he can*, to rebut my arguments. I do not rest my cause on empty assertion; the charge,

from which my extracts are taken, is given at length in the following minutes of the trial, on a reference to which I ground the justification of my comments.

"Read this, and this," Judge Taunton,
"And then to breakfast with what appetite you may."

I repeat, that I stand above all individual considerations, "I know no *personal* cause to spurn him, but the *general*." I denounce and contend against the spirit of injustice, and *not* against the person of Judge Taunton, "my purpose is necessary, and not envious." I seek not the gratification of any private pique, but the promotion of public good. JUSTICE has been outraged, and I appeal to the British public for redress. The cause is not that of the man, but of the community. If justice be strangled in a flimsy web of sophistry, or rather of absurdity, of prejudice, and of pride, who can confide in the protection of the law? If, when a victim is marked by those in authority, a judge will betray the dignity of his office and perform the sacrifice—if the discretion of a Judge be recognized as a power above the law, he, who should be merely the instrument of the executive, becomes the despot of the court; the people are no longer the *subjects* of the laws, but the *slaves* of tyranny; and the combined aad embodied wisdom of the legislature is betrayed and mocked by the caprice, folly, wickedness of their magistrate. If the decision of an action be influenced, not by the merits of a man's case, but by the texture of his coat, and that a judge view the ranks of society, not as a stimulus to civilization, but as a scale to graduate punishments—if the insolence of a judge be permitted to aggravate the injustice of his judgment, and that the people be made subjects of scorn from the judgment seat, they must necessarily view its occupant with disdain, and the legislature with distrust. Public

opinion will shake the fabric of the constitution it had supported, and if redress be withheld, a remedy must be found in other modes than in servile submission.

Trial by jury is to the individual what the liberty of the press is to the people—the palladium of his rights, and it is invariably against these the designs of despotism are levelled, when encroachment is contemplated against popular privileges. It is as dangerous for a judge to mislead the reason of a jury, by legal subilties, and an appeal to false principles to return an erronious verdict, as to adopt the more daring course of inflicting them with fine, as formerly for acting in opposition to the direction of the Court. Either mode of proceeding must bring their verdicts into disrepute, and the abuse of the system must render the people indifferent to its preservation. The latter mode of curtailing the power of juries was attempted at the Restoration, but failed, and strong resolutions were passed by a Committee of the House of Commons against Lord C. J. Keeling for illegal and arbitrary proceedings in his office; but, on being heard at the bar of the House, the proceedings were dropt on his receiving a reprimand. Should Judge Taunton's conduct become the subject of impeachment, as I have no doubt it will, I trust he may be equally fortunate, as a strong hope of his amendment from a reprimand, would make me averse to degrading him by a dismissal. I had it in contemplation to address the Lord Chancellor on this subject; but, on reflection, I thought better to content myself with forwarding to his lordship a copy of this pamphlet; trusting, that when he perceives that a charge so grave in its nature, has been not only preferred, but proved against the representative of Majesty, measures will be taken to efface the stain, and restore the robes of justice to their wonted purity.

I again disclaim all personal feelings towards Judge Taunton. This is indeed, a *bona fide* communication, made *solely* for the public good. The terms of my accusation are not stronger than what the occasion called for. My readers must feel convinced, that independent of the flagrancy of Judge Taunton's retiring with the defendant's witnesses, *the charge* in question was *injudicial, prejudiced, absurd, and flagitious.* I am not an anonymous accuser. I take the responsibility of my allegations, I appeal to my country, and am solicitous only that the injured may have redress. The courage of Louvet did not shrink from attacking a tyrant, nor do I shun the hazard of the present denunciation.

C'est moi qui t'accuse—Robespierre.

JOHN STEWARD STRACY.

5, *Verulam Buildings,*
20*th April,* 1833.

BLAKE v. PILFOLD.

Before Judge Taunton, at Exeter, the Summer Assizes, 1832.

Mr. Butt opened the pleadings.

Mr. Follett addressed the Jury for the Plaintiff, stating the case, as afterwards detailed in evidence. The learned gentleman commented at some length on the spirit manifested by the Defendant, who had written a letter in a spirit of hostility the most intemperate, demanding the discharge of a poor man from a situation in which his very subsistence and character were involved. This letter was written without any attempt being made to ascertain the truth or falsehood of the circumstances which it detailed—without any rational desire to put the facts on such a basis as every honest man would wish to see them placed; and the Post Office giving implicit credence to the Defendant, who was a comparatively rich man, whilst the Plaintiff was poor, the result was, that without inquiry, without investigation, such as every man was entitled to, who was charged with the commission of an offence, and such as every reasonable and honorable man would yield, this poor man was deprived at once of his place and his character, and so far thrown upon the world completely destitute.

Having no means of subsistence, no chance of procuring employment, whilst his character was shrouded under this disgrace, he was compelled to bring this action in self-defence. This case would have been brought on before but from circumstances which were quite unavoidable. The letter was written in 1831, but it was not until after the

Lammas Assizes that the Plaintiff was made acquainted with the specific charge that was brought against him. In the Spring Assizes of the present year a legal difficulty arose which compelled the Plaintiff to commence his case *de novo* at the present Assizes, and it is at length placed in your hands for you to decide the truth or falsehood of the charge. The Jury would observe, that the Plaintiff was not in a situation to prove or disprove the truth of many of the charges contained in that letter, because the circumstances were said to have taken place inside a stage-coach when nobody but the Plaintiff and the wife of the Defendant was present. But some part of the charges, and that a very material one, might be noticed—namely, the state in which the Plaintiff was said to be when he got into the coach, and on the evidence offered on either side the Jury would have to decide. The Plaintiff's object in bringing this case was not merely to prove the libel and then call for damages; that was not the Plaintiffs object in coming into Court. But he came to try the general merits of the case. He came to ask the Jury for their opinion on the facts, because it was upon the circumstantial proof of the untruth of the principal charge that the subsistence of this poor man depended; for if he (the learned Counsel) could satisfy the Jury that this part of the charge was untrue, he would, in all probability, be reinstated in his employment. This, he had no doubt, he should do, for it would have been useless to bring the case into Court, unless fully assured that this charge would be fully and amply disproved. [The learned Gentleman proceeded to detail the case as it came out in evidence.] The letter was then read, and the learned Counsel, having commented on the demand of Capt. Pilfold, that the Plaintiff should be dismissed without an inquiry being first demanded.

The following witness was then called.

Mr. ARCHER.—*Examined by Mr. Butt.*—What is your Christian name, Mr. Archer?—Thomas Warder Archer.

Do you know the hand-writing of Capt. Pilfold?—Yes.

Look at that signature; is that his hand-writing?—This is Capt. Pilford's writing.

Cross-examined by Mr. Sergeant Coleridge.—How long have you known him?—Nearly four years.

He is a Captain in his Majesty's Navy?—Yes, sir.

Do you know in what state of health he is now?—Yes, believe he is in a very indifferent state of health.

Is he capable of doing any duty?—He is on half-pay, but not capable of doing duty.

I believe he is in a state of mental imbecility is he not?—He is.

Do you know Mrs. Pilfold; about what aged person is she?—I should suppose she is above sixty.

Do you know what children they have?—Two daughters.

Is he a Companion of the Bath?—He is, sir.

Re-examined by Mr. Follett.—How long has he been labouring under mental imbecility?—It may be nearly twelve months since he was first attacked.

How do you mean first attacked—being struck?—I believe so.

When did you see him first afterwards?—He was taken ill, and although doing duty, I did not see him for four months after.

That is nearly eight months ago?—It was nearly the latter end of the year.

Do you know what month it was in?—To the best of my recollection, it was in the month of October, 1831.

Was he ill any time before that?—No, sir.

Mr. Sergeant Coleridge.—It is not on account of the situation of mind of Capt. Pilfold that I object to the production of this letter. My idea of this letter is, that a complaint made to a public body touching the conduct of their officer——

Mr. Justice Taunton.---There is no evidence of that How do I know what it is till I hear it?

Mr. Sergeant Coleridge.---Your Lordship knows, from the character of this letter, my objection to it is this, that when an individual is called to produce to a Jury any document which has been sent to a public body, touching the conduct of their officer, he can withhold if he chooses to do so.

Mr. Justice Taunton.---If the letter is read, it is a question for the Jury.

Mr. Sergeant Coleridge.---My Lord, I am very unlucky in not making myself perfectly understood, this is one of those communications which cannot be made to a Jury. It is not what they may think of it; it has been decided over and over again, in cases of this sort, that what has been submitted to a public officer cannot be produced for the consideration of a Jury. In the case of Home *v.* Lord F. C. Bentinck, Broderip and Bingham's Reports, vol. ii. p. 130, it is so decided; but before I read this case I must first state, that if any officer of the Post Office, if Sir Francis Freeling had been put into that box, and had been called upon to produce that letter if he had objected to the production of that letter, your Lordship would not have compelled him to produce it. This was perfectly clear, then, and the only grounds was, whether it was not a privileged communication, and whether the party possessing it might not refuse to produce it if he chose.

Mr. Justice Taunton.---That would depend whether the document of that case had been made on public grounds alone.

Mr. Sergeant Coleridge.---The case of Home *v.* Bentinck, was an action against his Lordship, as President of a Court, appointed by the command of the Duke of York, to inquire into the conduct of the defendant, Col. Home. At the trial, Sir Henry Torrens proved that the plaintiff's letter was the foundation of the libel for a court of inquiry. At the trial before Chief Justice Abbott, Sir Henry Torrens, the Duke of York's Secretary, in whose custody the letter was, made no objection to the production of the letter at all, but the counsel for the defendant insisted that the letter could not be admitted; counsel for the Plaintiff contended that it ought to be; and Chief Justice Abbott delivered his opinion that the documents ought not to be admitted. The counsel for the platntiff then tendered a copy, and the Chief Justice contended that the copy ought not to be admitted also. The case was argued at very great length, and the

judgment of the court was, that the grounds of the principle ought not to be admitted. The Chief Justice said, I will not say the question is, whether, under these circumstances, Sir Henry Torrens would have been compelled to produce them, but whether, if he had been so disposed, or had done so under a mistake, whether it would not have been the bounden duty of the learned Judge, before whom this case had been tried, considering this document was sacred, and not the property of the party who held it, but property entrusted on behalf of the public, it was, in fact, a privileged communication. Now, before I examine witnesses in a case of this description, I must contend, that in these courts, official persons are not to be asked of whom they received information, for instance, cases of frauds on the revenue. Now what is the reason of that; why, if persons gave information that would be instantly disclosed, they would be liable to revengeful punishment, and all means would be stopped for procuring information. Now, here was a similar case, a party made a complaint; but who would ever communicate a complaint against any individual, particularly if he were liable, as in this case, to have an action brought against him.

Case of Home and Bentinck, now read by the learned Sergeant:

Mr. Sergeant Coleridge then continued.—In all the cases which I have read, there was the same course adopted, and, my Lord, I apprehend that the reasoning here of the Chief Justice strictly applies to this case that is here. If a party make a complaint, your Lordship would now lay down the same rule, which, if admitted in this case, you may allow in all others. I say, if your Lordship allow that document to be produced in evidence, you immediately shut the door against all other persons communicating. I therefore submit to your Lordship, that in justice, as well as in good policy, you will not allow that letter to be read here now.

Mr. Sergeant Coleridge now cited another case, Wyatt *v.*

Gorman, in Holme's *nisi prius* cases, page 299. He also instanced other cases.

Mr. Justice Taunton.—I am of opinion, that the present does not come within the cases cited, which come only to Members of Government, one is a communication made by the President of a court martial to the Commander-in-Chief, another is governor of a colony, another is principal Secretary of State; and if the Members of Government, for reasons of state policy, are not to have their communications introduced into every private action, that a private individual may think fit to introduce for any, or every purpose, so an individual cannot claim any privilege merely for having written a letter—if that were the case, it would follow, of necessity, that any individual might write a most malicious letter, provided he took care to address it to a Member of his Majesty's government.

The libel was now put in and read by the officer of the Court.

It was dated 4th of May, 1830, and addressed from John Pilfold to Sir Francis Freeling.

CHARLES JOHNSON—*Examined by Mr. Butt.*—You are superintendant of the Mail department of the Post Office?—Yes.

William Blake was appointed in 1819, was he not?—Mr. Johnson referred to some documents he had in his possession and replied—on the 20th January, 1824.

What was he appointed?—An extra Mail guard, as they all are.

Was he employed by the Post Office?—No, he cannot be, according to the regulations laid down.

Now, in 1830, did you send a dismissal to Blake from his situation?—Yes.

What was the salary of a guard?—Half a guinea per week.

Are there not some gratuities besides?—What the passengers choose to give them.

Any from the Post Office?—Oh! none except their uniform.

I understand you to say that the passengers are the principal source of emolumant?—Undoubtedly.

It is usual, I believe, after some service, for them to have a retiring pension?—Not till they are entirely worn out.

During the time the Plaintiff has been in this service, what has been his character as a guard?—I cannot tell any thing of his particular character.

Cross examined by Mr. Sergeant Coleridge.—You have stated that Mr. Blake was dismissed in 1830 from his situation?—Yes,

Are you stationed at the central Post Office in London?—Yes.

Do you know whether before the dismissal took place, any inquiry took place into his conduct?—Undoubtedly there was an inquiry.

Who was the person who made that inquiry?—Mr. Wedderburn, inspector, by my directions.

Is Mr. Wedderburn in this country?—He is here.

Upon that I suppose Mr. Wedderburn reported?—Yes.

Subsequent to that inquiry, do you know whether any application was made by Blake's attorney at the office in London for the letter?—Yes.

Upon one occasion was not that letter produced and read by the attorney?—No.

In whose charge was the letter left?—In my own office.

The letter had been shown to you from a note?—There was an application made in my absence.

Mr. Justice Taunton.—You say that several applications were made. But I know not by whom?—By a Mr. Stracy and a Mr. Rosher, who is attorney in the case.

Mr. Sergeant Coleridge.—Was the application you speak of, or any of them, to see the letter, or be allowed to make a copy?—To make a copy, applications were made when it became public, and were generally for a copy.

Re-examined by Mr. Butt.—Was not the application to see and make a copy?—Yes.

Both of which were refused?—Yes.

At this inquiry into the conduct of the Plaintiff were you present?

Mr. Sergeant Coleridge objected to this question.

Mr. Butt.—Have you any reason to believe that Blake was present at that inquiry?—No.

In 1823, did not the Post Office reward him for some good service?

Mr. Sergeant Coleridge.—I must object to that question; it does not arise out of my cross-examination of the witness.

Mr. Butt.—Do you know that a gratuity was awarded to Blake for his good conduct?—I believe so. I am not certain.

JOHN CARDER.—*Examined by Mr. Follett.*—I believe you were the coachman that drove the Exeter, Bristol and Devonport Mail, in the month of May 1830?—I was.

You know William Blake?—I do.

You knew him before I suppose?—As guard of the Devonport Mail.

Blake was guard of the Mail from Devonport to London?—Yes, but not with me.

Your Mail-Coach also runs from Devonport?—Yes.

Now, do you remember on the 2nd of May taking Blake up?—I do.

What time did the Mail leave Exeter?—At half-after six in the evening.

Where did you take him up?—At Alphington turnpike gate.

That is in Exeter?—Yes, at St. Thomas's.

What part of the coach did he sit on?—By the side of me on the coach-box.

What time was this?—Half-past Six.

When Blake got up was he drunk or sober?—He was perfectly sober.

Do you know whether he was in bad health at the time?—He was.

You say he sat by you on the box?—He did.

What is the first stage from Exeter?—Chudleigh.

You stop and change horses there?—We do.

Had he any think to drink at Chudleigh?—That I don't know.

On your leaving Chudleigh, did he again ride by you?—Yes.

Had the Mail stopped at Chudleigh for any thing else?—Merely to change horses.

Long?—No, two or three minutes.

What was the next stage from Chudleigh?—Newton Bushell,

There you stopped again?—Yes, to change horses.

Now, how far did he go with you outside?—He went to Yealmpton.

How far is that from here?—It is about seven or eight and thirty miles from Exeter. We change twice before we come there, after Newton Bushell.

He continued outside till you came to Yealmpton?—He did.

What sort of a night was it when you came there?—A misty, foggy night, moon light, but not bright.

Mr. Justice Taunton.—Moon light you say, but not bright?—Not bright, my Lord.

Mr. Follett.—Now at Yealmpton, you say he rode outside till he got there?—He did.

Did he get inside there?—At the Post Office, while the guard was taking up the bag.

Had he made any complaint of cold before that?—He had, Sir, he said he was chilly.

Did he ask you to let him go inside?—Yes, he did.

Then you gave him leave?—Yes.

Now, you say Blake was sober when he got on the box, did he continue sober?—He did.

What inside passengers were there that night?—A Lady, only one Lady.

That was Mrs. Pilfold?—I understood her name was Pilfold.

When you got to Yealmpton, how long did he continue inside?—Not five minutes.

Did the coach stop shortly afterwards?—Yes.

What was it for?—To put the drag on.

When the coach stopped, was any thing said to you by either of the parties inside?—Not a word.

Blake, you say, was only in five minutes, was any thing said to you before he got out?—Not to me—when I came to the bottom of the hill I took the drag off, then the lady called to me, and said, "coachman, have you any room outside."

What was said then by you?—I said "yes."

What did she say?—She said she could not ride any further inside—I said, "'tis a very cold night, very cold indeed."

Did Blake say any thing at the time?—No.

Did he get out then?—He did—when he got out he came out with a silk handkerchief tied round his head.

Did he say any thing at the time?—He looked up to the guard and said, "Walters, you are guard of this Mail—the lady objects to my going any further inside."

Well, what did he say besides?—He said, "the lady says I have insulted her, I wish you would be kind enough to ask her what I have insulted her in."

Did Walters say any thing to her?—He asked the lady what this person had insulted her in.

What did she say?—"Shut the door—shut the door."

Was the door shut?—Yes.

And the coach went on?—Yes.

Where did he sit then?—Upon the box along side of me.

Did he continue to do so, till you got to Plymouth?—Till I got to Plymouth.

What time did you get to Plymouth?—About twelve—it might be five minutes after that—I can't say.

Now the Plaintiff continued sober all the time?—He did.

He was sober when you arrived at Plymouth?—Yes, he was.

Cross examined by Mr. Jeremy.—You had taken up Blake, as a friend, on the box?—Yes.

Not a passenger?—No Sir.

He was in bad health at the time?—Yes, he complained of being in bad health.

Did he not complain of sickness?—No.

Did you never hear him complain of it?—No, I did not.

Not driving the whole time?—No, not a word.

You say it was a misty, foggy night—did either of you smoke? Smoke, oh! no Sir.

No?—By smoking, you mean smoking cigars?—Certainly no.

What, not during a part of the journey?—No, I did not see him.

You did not see him, must you not have seen him if he had?—I must have seen him.

You say, that he did not continue above five minutes inside?—No Sir.

Now, in what manner did she say—"shut the door—shut the door," upon his applying to Walters?—In what manner? the same as another person does.

Not rapid?—No—not in a passion.

Was she agitated at all?—No, not to my observation.

You were sitting on the box?—I was.

Was the door opened again?—No.

Do you mean to say, that when the guard got out that he did not open it again?—No.

Upon your oath did he not open it a second time?—At Mr. Morris's, when the lady got out.

No? at Kitley-hill?—No he did not.

Do you mean to say that he opened the door only once?—He opened the door and let himself in, and then he opened the door and let himself out.

Then do you mean to swear that he did no more at the bottom of Kitley-hill than open the door, and let himself out, and then shut it again, and then there was this conversation about the lady having said he insulted her?—I do.

Did she put her head out of the coach to ask you if there was any room outside?—She did, I have said so.

Did she not say at the time that "the man had insulted

her, the man had insulted her?"—She said that he was offensive to her before he got out.

Did she not use the word insult at the time?—Not to my knowledge, I won't swear she did not—I won't swear she did.

But the guard said she said he had insulted her?—I am speaking of Blake, I don't know whom you mean by the guard—the present guard on duty?

Did not Blake say that she complained of his having insulted her?—Yes.

And you heard her say that he was offensive to her, and she asked if she could not go outside—she could not ride in?—Yes, that was before we got to the bottom of Kitley-hill.

How long before this?—I don't know, about five minutes.

Did you desire him to come out after this lady had made the complaint to you?—I said, "Blake come out."

What did he say to that?—He made me no answer, but came out immediately.

Did he drive any part of the way?—He did.

Now do you undertake to swear that he did not open the door?—I do.

Or do you mean to swear you did not see him—I ask you, on your oath, if he did not after he got out?—Not after he got out

You mean to swear that?—I do.

Did you hear, at any part of the journey the word Rats-hole?—No Sir.

When you got to Plymouth, did you hear the lady make use of that expression?—No Sir.

What was you doing when the lady got out?—I was on the box.

Did you hear what took place between the lady and the guard at the church door?—I heard what Blake said.

But I ask you, if you heard what the lady said when the coach got to Plymouth?—No.

You did not hear the expression Rats-hole?—I did not.

By neither party?—By neither party.

Now you have said that you have given my learned friend accounts of the different parts of the road where you stopped—you stopped first at Chudleigh?—Yes, I had a glass of gin and peppermint, Blake had a glass of negus there.

Upon your oath, did you not all have brandy and water?—No, we did not.

You had gin?—I had gin and peppermint, Blake had negus.

How long were you staying and drinking it!—Not three minutes.

Now the next place was Newton Bushell—had you any thing to drink there?—I had a glass of gin and peppermint there.

Had Blake any thing there?—Upon my oath, I can't say.

Had Walter's any thing?—He did not go into the house to my knowledge.

Will you swear there was nothing brought out?—I will swear that I don't know whether there was or no.

Will you swear there was nothing brought out to Blake?—I saw nothing---I won't tell a lie about it.

I dare say not---did he go into the house with you? I did not perceive him---when I stopped I had something to do to unbuckle my horses.

Yes, and take gin and peppermint?—Yes.

Now upon your oath, will you undertake to swear he did not go in with you? Yes.

Now you will not undertake to swear that he did not drink there? I will not.

Now you passed on to Totness, and from Totness to Newhouse. Did you stop at Newhouse? Yes.

What did you drink there? I had a glass of gin and peppermint there.

What had Blake, your companion on the box? I don't know.

What had Blake, did he go in there? He was in the

house; I can't say he went in with me, but he was in the house.

Did you see him drink any thing there? No, I did not.

Do you mean to swear that he did not drink there? No, I mean to swear that I did not see him drink any thing.

Did you remain in his company all the time? I did not.

Then, if he drank any thing, it was when you were away from him? It was.

Do you know whether Walters had any thing? I do not.

Now the next stage was to Erme Bridge, what had you there? A glass of gin and water.

Did you drink it in or out of the house? In the bar.

Did Blake go in himself? Yes.

Did he drink? He did.

What did he drink? I can't say, I did not see what he drank.

Now all these places are before you come to Yealmpton, and you had drank four times? Yes.

And you won't undertake to swear, that Blake had not drank as many times? No, I will not.

Now, how far is Kitley-hill from Yealmpton? Not quite a mile.

Then he was only inside the coach during the time you were going from Yealmpton to Kitley-hill? Yes.

That was the period during which what you have related occurred? Yes, it was.

Now you recollect Mr. Wedderburn coming? No.

Don't you know Mr. Wedderburn? Yes, perfectly well.

Do you recollect having any conversation with him? Yes.

Did he send for you? No.

Did you call upon him of your own accord in the course of business? We met in the street, I had no business with him, nor he with me.

Upon your oath, you had no business with him about it? I had not.

What do you mean by saying, you never had any conversation with him about it? No, I said business.

You mistake me about it? Yes.

You had conversation with him? Yes.

Give me an account of it? The same as I have to you.

Did he tell you what the complaint was? I can't say.

Endeavour to recollect.—Did he not read a report to you? He did not.

Did he let you see it? No.

Was no statement made to you of what Capt. Pilfold had informed against you all? No.

Was there no paper produced? No, there was not.

Did Mr. Wedderburn tell you? No, he did not.

Who was present? No one but him and me.

Did you ever swear that he was not with you, and was at Exeter? Never.

Was there any paper produced? No.

Did he not tell you what he was going to do in the conversation with you? He did not.

Do you mean to swear, that there was no statement made as to the inquiry? There was not—I swear positively.

Re-examined by Mr. Follet.---What size are these glasses? Small glasses.

How long have you been driver of the coach? About thirteen years.

And during such time have had peppermint a great many times? Yes.

Now, did you drink any more than usual? No more than generally.

You take that pretty often? Once each stage.

That is your allowance? What I allow myself, sir.

You say that Blake drove the horses part of the journey —where was it? From a place called Fancy, where Mr. Evans used to live, to Erme Bridge Inn.

Was this before you came to Kitley?—Yes.

The Farm Inn is a stage after New-house?—Yes.

How far is it from Yealmpton?—About four miles.

On the Exeter side?—Yes, Sir.

There he gave up the reins and you drove again?—After we came to the Farm Inn.

I think you say you saw him drink once at Chudleigh, but whether at other places you can't say? I cannot.

Mr. THOMAS RUTTER—*Examined by Mr. Butt*—You are a surgeon of Devonport, Mr. Rutter?—I am.

You know the Plaintiff Blake?—I do very well.

In the month of May, 1830, was he under your care?—He was.

From about what time—in May early?—From the 2nd of April.

Mr. Justice Taunton—What month?—The second of April, my Lord.

Mr. Butt—Was he under your care in April?—Yes.

Till what time?—From the 2nd of April till the 10th of May.

What was the matter with him?—A derangement of the digestive organs.

Did you advise him to take care of the weather as much as possible?—Not at that time.

Cross-examined by Mr. Sergeant Coleridge—Pray, in your opinion, had this derangement arisen from drinking?—I am not aware that it was—it arises from a variety of causes.

I conclude, on finding his digestive organs disordered, you inquired what were his previous habits?—I am not aware that I did.

Now, my friend asked if you directed him to take care of himself—did you recommend him to any sort of beverage—to negus?

Upon first consulting me, I recommended him to take one glass of brandy and water per day.

Did you learn any necessity for that limit?—He had been in the habit of taking two or three, I understood.

Now you can tell me whether you did not recommend him to drink weakly the liquor he had been in the habit of drinking up at that time?—I am not exactly aware of that.

Do I not know that indigestion arises from drinking?—It arises from many other causes.

That may be so, but did you not tell him that it arose from too much drinking?—And too much eating and drinking of spirits.

Brandy and water?—I am not at all aware that I did.

Re-examined by Mr. Butt—He had been in the habit of taking two or three glasses of brandy and water?—Yes.

And making a full meal at dinner?—Yes.

THOMAS WALTERS—*Examined by Mr. Follett*—Walters, you are guard of the Bath, Exeter, and Devonport Mail?—Yes.

You have been so for some years?—Ever since the 21st of June, 1823, nine years.

Then you were guard of it in May, 1830?—I was.

You knew Blake at the time?—I suppose I did.

Do you remember taking Blake up on the 2nd of May, when you were leaving Exeter?—Yes, I do.

You took him up at St. Thomas's?—Just outside the turnpike.

Did you see him when he got up?—Yes.

And spoke to him?—Yes.

He got up on the box?—Yes.

Were you able at the time to see whether he was sober?—As sober as I am now at this moment.

Where did you see Blake after that?—He set by the side of the coachman.

And you rode behind?—Yes.

Then you did not see him again, so as to talk to him, till you got to the first stage?—I saw him all the way till he got inside at Yealmpton.

Were there any other outside passengers?—There were not.

Did you speak to him upon the road?—Yes, several times.

Did he continue sober during the time you were on the coach?—I am sure he was perfectly sober.

You say that you saw him when he got inside at Yealmpton—did you let him in?—No, he let himself in, while I was about the bags.

Now, how long did he continue inside?—About five misnute—it was rather a short mile.

Where did he get out again?—At the bottom of Kitley-hill, where we took the drag off the wheel.

Who let the door open for him to come out?—Himself.

Before that did you hear any thing said?—Not a syllable.

When the door was open, what was said?—Blake said, "Tom, I have offended this Lady."

Did you say anything to the lady? I did not—she said, "Shut the door—shut the door."

Did Blake get outside again then?—He did.

He continued outside all the way through?—Yes.

Now he was sober the whole of the time?—As sober as I am now.

Was he sober when he got to Plymouth and got off?—He was.

Now, I want to know if he was sober when he got off the Mail at Devonport?—Perfectly sober at that time—He gave me the key and went home to bed.

You say he gave you the key and went home to go to bed?—He lodged in the same house with me.

Cross-examined by Mr. Sergeant Coleridge—Walters, how long have you known Blake?—For a number of years—I can't say how long—fourteen or fifteen years.

Do you frequent the same house in Exeter?—I frequent many houses in Exeter.

Perhaps he does the same?—I don't know.

Did you never meet him in Exeter?—He does not stop in Exeter—he goes through.

When he is at work—he is not at work now?—No.

Then you lodge at the same house in Devonport?—Yes.

You were suspended, I think?—Yes, suspended and discharged.

Now do you know Mr. Wedderburn? Very well.

Had you any talk with him about this letter before you were suspended? None.

Had you any conversation with Mr. Wedderburn about

this business before you were discharged? Oh, no Sir—nothing at all.

Then you did not see him or have any conversation with him ?---Oh, no---nothing at all.

Let me see and refresh your memory---you say you do not recollect having any conversation with Wedderburn at all---do you recollect any inquiry about Blake's conduct --- I don't recollect any.

Do you mean to say you had no conversation with him ? Not till I was off.

How soon was that ?---Sev ral days after, when I came up on the Sunday night, I had notice that I was to be suspended.

Suspended until an inquiry into your conduct ?---I was to be suspended.

Then, after a certain time, you were to be discharged ?--- Yes.

Then, between your suspension and your discharge, had you no talk with Mr. Wedderburn ?---Yes.

Now, did not Mr. Wedderburn state what charges had been made against Blake ?---No more than he said he did not blame me—he said I was wrong to let Blake inside.

Now, did you go on board the *San Josef*, Walters, to see Capt. Pilford ?—Yes.

Were you there once or twice ?---I was there twice.

Did you see Mrs. Pilford the first time ?---Yes, I did.

The second time also ?---No, only the first time.

Did you not go on board when she was loath to see you there ?—No, Sir.

Why, have you never said that ?—No.

Do you remember seeing there a young woman, Jane Gregory ?---No, Sir, I never recollect seeing any woman at all but her daughter.

Come, on your oath, the daughter, but not the servant girl ?---I am on my oath, I never saw the servant---a young lady came up.

Now, I ask you, whether you did not, when you went there, say you had come to beg pardon ?---Yes.

Did you go down on your knees to Mrs. Pilfold?---I did.

Did you beg to be forgiven?---She wished me to be forgiven.

You mean she wished you to be reinstated?---Her language was, she hoped the little man would not be hurt.

Now, I ask you, if you did not say on that occasion, you admitted you had done wrong in allowing Blake to get inside, he was so drunk he could not ride out?---No, never.

You never said anything of the kind?---No, never,---not a word of the kind.

Now, I ask you, whether you did not say this---will you deny this word---whether you did not beg pardon, and say you did not know he was so tipsy?---No, I said I had no idea he would have insulted her, and the answer was made by Mrs. Pilfold---"I don't believe the man meant any harm, nor did he touch the hem of my garment."

Now, at the time you went there, you say you saw Miss Pilford---you saw her in the presence of her mother?—Sitting on the sofa.

You say that you did not make use of any of those expressions in her presence?---I did not, I am quite sure of it.

Now, when you went on board ship, did you know the charge that was made against Blake, for using violent and improper language?---Assuredly I did.

Now, I ask you, whether, on that occasion, you did not say that that charge of violent and improper language is true? ---No, Sir, that I will swear.

Nor anything to that effect?---Not to that effect.

You say that you knew Blake was accused of using violent and improper language?---Yes, Sir.

Now, I ask you, whether you did not say, when you were on board the ship, in Miss Pilford's presence, that is true?---If I had I should have told a story.

Had you seen Captain Pilford's statement?---Yes, at Devonport.

Now, did you go to Mrs. Lyne, the lady who kept the hotel, about this business of being discharged?---Mrs. Lyne sent a special message to me.

Did you go and see her?---I did.

Now, did you not say to Mr. Lyne, that you had no idea Blake was in the state he was, or he would not have let him got inside with the lady?---No, Sir.

That you swear?

That I swear. I told him that when I came before my Lord Judge, I should say we were all sober, and he said--- "Oh, you must not say that, you must say that you drank a little, or were half-seas-over." I said, "I'll be damned if I would, because I could swear to the sobriety of the Plaintiff."

Now, I ask you, whether you said to Mr. Lyne that you had much difficulty at the bottom of Kitley-hill, in preventing Blake getting in the coach again as he was very violent? ---Never.

Now, you know if you were not to say that you had had a glass or so---what did you take at Chudleigh?---A glass of brandy and water.

Pray what did Mr. Blake take there? He had a glass of what I don't know.

Now, at Newton Bushell, had he some brandy and water? ---I don't know---I had nothing---I never went into the house.

And you had nothing at Newton Bushell---does a person of the name of Beasly keep the Sun where you come to?--- Yes.

Has he a daughter of the name of Mary?---Yes.

Now do you know her?---Yes.

Now, Sir, will you swear that the Plaintiff did not drink a glass of brandy and water?---I will swear that I never had anything---I was not in the house.

Now, will you swear, that Blake did not call for a glass of brandy and water, and gave you and the post-boy some of it?---I will swear that I never saw it.

Well, pray did you take down Blake any other night in this way, about this time?---He might have, I can't say.

What time had he gone?---I can't say.

You say that he was as sober all the way through the

journey as you are now?---He was fit to return with the mail the moment he got off at Devonport.

Perhaps you are better coachmen, and better guards when drunk than when sober---Do you mean to say that he was perfectly sober as if he had not drunk ---He was not the worse for liquor.

He had drunk a little?---Why, if he had had a glass of negus and brandy and water he must have drunk a little.

Will you swear that he was not so tipsy as to insult a young womau at Newton Bushell? I don't believe he did.

I don't ask you if you saw it, for you were not in the house you say---but was he not so drunk that he might have done it? I don't believe he did.

Well, at New-house he had something? Yes, he had.

At the Fawn Inn he had something, and you had? Yes, I had a glass of brandy and water. I drank in fifty miles to the tune of fifteen pence.

Were you in the court when Carder was examined? No, I was not at the moment---I heard his name and went down immediately.

What for? I did not wish to hear his examination.

You wished to get particularly out of the way of Carder's examination? I always thought it was not allowed.

So you went away immediately? I went down immediately.

Had you been told before that you were to go away when he was examined? No.

Were there any cigars smoked that evening? I don't know, indeed, I am very fond of a cigar myself.

Will you swear that you all three did not take cigars that night, at the Fawn Inn? It may be so.

Who was driving when you came up to the Fawn Inn?—Blake.

How many miles was that? Three miles and a half.

Pray, who stood treat for all this riding down? Oh, we always make it a rule to stand treat when we ride for nothing.

What did you have? I had a glass of brandy and water, at Chudleigh, and a glass at New-house.

Re-examined---You say that these glasses came to fifteen-pence? Yes.

How long have you been in Court? All day.

During the former trial? Oh no.

You say you were suspended shortly after this? Yes.

You were restored again? I went to Mr. Wedderburn, and he said, I had done wrong in letting Blake get inside—I was suspended in consequence of this business.

Had you any talk with Mr. Wedderburn before this discharge? Yes.

When was it you saw him? After my return.

Well, was that after your discharge? No.

After you were suspended? Yes.

Now, why was it you went to see Capt. Pilfold and Mrs. Pilfold? I went down by order of Mr. Clench and saw him. On Monday morning I went on board—it was the Monday after the Sunday when I received the information that I was suspended.

That was by order of Mr. Clench? Yes.

How soon after that that you were discharged? About a fortnight.

Than you had seen Mrs. Pilfold before you were discharged? I had.

How long did you continue out of employment? A month.

Afterwards did you see Mrs. Pilfold again? No, Sir.

Now have you been asked about Mr. Lyne—he sent a message to you? Yes, I thought he was wire-drawing me.

Did he tell you he was wire-drawing you? No, I had a mistrust, so I cut directly.

Did he tell you who was Mrs. Pilfold's attorney? No, I flattered myself that that was the gentleman, so I walked off.

Now when was it that he sent for you? I can't tell, it was before the lass assizes.

You were subpœnaed as a witness last assizes? Yes, on both sides.

How long might it be before the assizes that Lyne sent for you? It might be about three weeks or a fortnight.

Where was it at? At Devonport.

You have been guard of the Mail-coach for a great many years? Three and twenty years, from the 28th of May last.

JAMES CRISPIN—*Examined by Mr. Butt.*—What are you? Mail horse-keeper at Chudleigh

Do you remember the Bath Mail coming there on the second of May? Yes Sir.

Did you see Blake? Yes, I did Sir.

Did you know Blake before? Yes, I did.

Was he sober? Yes.

You had an opportunity of observing that? I had.

When did you see him? I saw him first on the Mail.

Did you see him get down? Yes.

Did you see him start afterwards? I saw him in the passage.

Did you have any talk with him? No, I had not.

Had you any opportunity of observing him? I had.

Cross-examined by Mr. Jeremy.—How long is the Mail changing horses? Three minutes.

You were as busy putting to as quick as possible? Sometimes I have plenty of help.

Now, did you see where these gentlemen went when they got off the box? Why, they went into the passage.

Did you see Blake with a glass of brandy and water? Oh, I did not.

Do you mean to say you saw him in the passage, and that is all? While we were putting to I saw him.

Who employs you? Mr. Petherick.

What is he? He is the Inn-keeper at Chudleigh.

SAMUEL HALLETT.—*Examined by Mr. Follett.*—What were you in the month of May, 1830? I was waiter at the inn at Chudleigh.

And now you are in business for yourself? Yes Sir.

Did you know Blake? I knew him well.

Do you remember seeing him when the Bath Mail came in on the 2d of May. Yes.

Where was he when you first saw him? On the box.

Did you see him afterwards? Yes, I saw him in the bar.

Had he any thing to drink? Yes, I went for some boiling water for him.

What had he? A glass of negus.

Did he drink the negus there? He did.

You had an opportunity of seeing him there? I had.

Could you tell at the time whether he was sober or not? Quite sober.

Did you see the Mail go again? Yes.

He was on the box? Yes.

Cross-examined by Mr. Sergeant Coleridge.—Do you remember what coloured coat he had on that evening? Was it black? I don't know whether it was black or not.

He was not in uniform? No.

Mary Mear *examined by Mr. Butt.*—Were you chambermaid at the Clifford Arms Inn, Chudleigh, in May, 1830? Yes.

Do you remember the Bath, Exeter, and Devonport Mail coming there on the 2d of May in that year? Yes.

Do you remember seeing Blake? Yes.

Had you an opportunity of observing him, whether he was sober or not? Perfectly sober.

Mary Anne Waters.—*Examined by Mr. Follett.*—You are chamber-maid at the Seven Stars, Totness? Yes, Sir.

You were living there two years ago, in the month of May? Yes.

Do you know Blake? Yes.

Do you remember his coming to the Seven Stars by the Mail? Yes, I do.

You saw him at the time at the Inn? Yes.

Where was he? Standing at the door; I was standing at the door when he came up with the coach.

Was that while the horses were changing? Yes, Sir.—The waiters go there and wait till the coach departs.

Did you stop at the door or go in? I stopped at the door.

Did he stop talking with you all the while? Yes, Sir.

During the time you were talking with him, had you an

opportunity of observing that he was perfectly sober or not? Yes, Sir.

Mr. Justice Taunton.—Do you mean to say, that he was perfectly sober? Perfectly sober, my Lord.

Mr. Follett—Had he any thing to drink at Totness? I believe not.

ROBERT GASKIN, *examined by Mr. Butt.*—Are you an Innkeeper at New-house? Yes.

Do you remember the Bath and Exeter Mail coming to your house in the month of May, 1818? Yes.

Do you know Blake? Yes.

Did you see him come by the Mail? He came to my house.

Have you any conversation with him? Very little.

You observed him? Yes.

Was he sober or not? Very sober.

Did you know in what state of health he was at the time? He complained of being unwell.

Cross-examined by Mr. Sergeant Coleridge.—Is your daughter Elizabeth here? Yes, Sir.

Does she live with you? Yes.

Does Blake, when he is upon the Devonport Mail, go this road? Yes.

The Devonport Mail goes the same road as the Bath and Exeter Mail? Yes.

So that while he was at work you saw him very often? Yes.

Did he pass down or change by day light? Yes.

I am speaking of the Devonport Mail—when he himself is at work on his own coach, the Devonport Mail, what time does that change? About ten o'Clock.

Mr. Justice Taunton.—Hear the question—you are asked what time the Devonport Mail stops at your house.

Mr. Sergeant Coleridge.—You are under a mistake—are there two that go that road? No Sir, one goes the Ashburton road. The Bath and Exeter Mail goes that way.

Now, Gaskin, you say that he was perfectly sober that night? Perfectly sober, I am certain.

Have you always been certain of that? I never see him tipsy whenever he comes our way.

Are you certain of that night? I am, I had an opportunity of seeing that he was perfectly sober that night.

Have you always been certain that he was quite sober that night? Always.

Have you never said that you could not swear that he was sober that night? Never.

Have you never said so in the presence of Mr. Slyfield—that you could not swear that he was sober that night? Mr. Slyfield asked me, and I told him he was perfectly sober, it appeared so to me.

Now, I ask you, whether you did not say to Mr. Slyfield, that you could not swear that he was perfectly sober that day? I never said a word of the kind to him or any other person.

He was in your house some time that night? About three minutes.

Did you see him with his head upon the table? No, Sir; he sat upright—he sat on the window bench.

You did not see him put his head on the table? No.

He complained of being unwell? Yes.

He did not put his head on the table? I should have seen him if he had done it.

Now, you say you did not see him put his head on the table at all? No, Sir.

There was no appearance of his being drowsy at all? No, perfectly sober; he complained of his being unwell, but was as sober as he is now.

Re-examined by Mr. Butt---Did any body come with Mr. Slyfield to put these questions to you? Mr. Gilbard, the attorney.

The man who is sitting here now? This is Mr. Slyfield, the keeper of the Fawn Inn.

After you were subpœnaed by the plaintiff they came to you? Yes.

Were they long? They were some time before I came home.

Did they stay long? Not above ten minutes.

ELIZABETH GASKIN—*Examined by Mr. Follett*—Are you daughter of the last witness? I am.

Do you live at the New-house? Yes, Sir.

Do you know Blake, the Plaintiff? Yes.

You have known him some time? Yes, five or six years.

Do you remember his coming here this night, when Walters came down with the Bath Mail? Yes.

Did you see him at your father's house? Yes.

Did you speak to him? Yes.

You had some talk with him, and he with you? I made some remark that he was looking unwell, and he said he was, and had been so for some time.

You had an opportunity of seeing whether he was sober or not? I talked to him while the coachman mended his whip.

Was he at that time perfectly sober? He was.

You say you talked to him while the coachman mended his whip---did you see him walk away? Yes—he walked away perfectly sober.

Cross-examined by Mr. Jeremy—You attended as waiter in your father's house that night? I did.

He had a glass of negus at your house? Yes.

What had the others? One had a glass of gin and ale, the other a glass of gin and peppermint—Blake paid for it.

He appeared unwell, and you remarked it? Yes.

He was lying with his head upon the table? No, Sir, he never attempted any such thing at all.

What makes you smile? Nothing.

Upon your oath have you never said that he had done so? Never—the question was put to me, and I contradicted it to Gilbard.

And that made you smile? Yes, Sir.

This is the gentleman? Yes, Sir.

Do you mean to swear that you contradicted that to him? I will.

Now, young woman, attend upon your oath, I ask you,

did you tell this gentleman, in the presence of Slyfield, that Blake was drowsy or sleepy, and laid his head? No, Sir.

Attend, don't be quite so quick upon me—Now, recollect you are upon your oath—I ask you, upon your oath, if you did not say to Mr. Gilbard, in the presence of Slyfield, that Blake was drowsy or sleepy, and laid his head upon his hand on the table while he was in your house? He felt unwell.

Mr. Justice Taunton---Give a plain yes or no.

No—Mr. Gilbard asked of me, whether Blake leaned his head upon the table---I contradicted him---Slyfield said he thought he had---I said he might have put his hand to his head in this manner---(witness here leant her face on her hand.)

In what part of the room was he sitting when you saw that? In the window seat.

Now, state to his Lordship what you said.

Witness---He might have lounged his hand on his head in this manner---(repeating her former action) as for his head on the table, he did not.

THOMAS COUCH---*Examined by Mr. Butt*---Are you the waiter at the King's Arms, Plymouth? Yes.

And were so in the month of May, 1830? Yes, Sir.

Did you know Blake? Yes.

Have you know him long? Yes, ever since I have been at the King's Arms.

Did you see him come that night? Yes.

And had an opportunity of observing his person? Yes.

What was your opinion by his manner? That he was perfectly sober.

THOMAS ENDLE—*Examined by Mr. Follett*—Are you porter at the King's Arms? Yes, Sir.

Do you know Blake? Yes, Sir.

Did you see the Mail Coach come in? Yes, it is part of my business.

Do you remember the night that Blake came down by the Bath Mail? Yes.

He stopped at Plymouth? Yes, he did.

Did you see him and talk to him that night? Yes.

Did you observe in what state he was, whether sober or not. Quite sober.

Cross-examined by Mr. Sergeant Coleridge---Now, tell me how long you talked with him---how many minutes conversation did you have with him? Not two minutes.

William Hewson.---*Examined by Mr. Butt.*---Were you formerly guard of a mail-coach? Yes, sir.

Can you tell me somewhere about the value of the place per year?

Mr. Sergeant Coleridge.---That depends upon the coach?

William Hewson.---It depends upon the passengers.

Mr. Butt.---What was about the average of the Devonport and Exeter mail?

Mr. Sergeant Coleridge.---How do you know anything about the Devonport and Exeter mail?

William Hewson.---No, I never was in that coach, I was in the London and Salisbury.

Mr. Butt.---What was your place worth? Between one hundred and seventy and one hundred and eighty pounds a-year.

Do you mean to say, that that included your salary? Yes.

Cross-examined by Mr. Sergeant Coleridge.----The coach depends very much on the conduct of the guard? —Yes, sir.

And the line of road which that coach is on? Yes, mine was a long distance, eighty-two miles a day.

Mr. John Clench.---*Examined by Mr. Follett.*---You keep the New London Inn in this city? Yes.

And are proprietor of a number of coaches? Yes.

Has Blake applied to you to take him into your service since this offence? No, sir, I do not recollect.

Has any one made an application for him? Yes, I believe I said I could not take him into my service as a guard, on account of his character. I said so to Mr. Stracy.

You have heard, of course, Mr. Clench, that he was dismissed on account of the charge brought against him? Certainly.

Cross-examined by Mr. Sergeant Coleridge.- You have not the appointment of mail guards? No.

You could not appoint him; if any application was made to you, it must have been as a guard to some other coach? —Yes.

Mr. Follett.---That is my case, my Lord.

Mr. Sergeant Coleridge.---Gentlemen of the Jury,---Among the many hardships which the Plaintiff has sustained, partly through the conduct of my client, but chiefly through his own, you must please to see that there are some which seem unavoidable.

Now, I am not a man to pay compliments unmeaningly and fulsomely; but this I think you will agree with me in saying, and I think it is what I ought to say, that let who might have been the individual who might have had the conducting of this case, Mr. Blake, to-day, has nothing to complain of, from the manner in which his case has been opened. I say this, gentlemen, not to waste your time in idle compliments to my learned friend to his face, but I say it because I think my client has suffered very considerably, by the manner in which his case has been opened, unless you disburthen your minds of a very considerable portion of what you then heard. He was pleased to represent his client as a compound of all that was good and excellent, who had been deprived of all his prosperity in life, by the cruel and oppressive conduct of my client, whom he had represented as one who had conducted himself as one unbecoming a man of his exalted situation, and even with wanton oppression.

Gentlemen, as far as his evidence led him---and you will remember, step by step, that in all the general observations he made, he came to this fact,---that not the slightest foundation existed to prove the charge of general malice, and I shall submit to you, through his Lordship, that there is not the slightest foundation to shew that Captain Pilfold was actuated by the slightest degree of malice when he wrote that letter.

Gentlemen, I stand here to represent an individual who

has served his country with honor, through a long life, who at this very period, as you have heard, is an invalid, and was then so unable to enter on active duty, that he was captain of a ship in ordinary. He had nothing to depend on but his pay, with a wife and two unprotected daughters, to look to him for support; and now, what is his situation---with nothing but his half-pay, and diseased in body and mind, with the same family looking up to him for support---I am quite aware that you have nothing to do with this, and that you will give such a verdict as will meet the justice of the case, without reference to the situation of either party. With these general observations, respecting the situation of the parties, let me now draw your attention to another part of the case, which you will find of the highest importance hereafter, in making up your minds upon the verdict. My learned friend has dwelt upon the hardship of the Plaintiff's situation, because he and Mrs. Pilfold were alone in the coach, when the transaction out of which the letter arose, took place. Did my learned friend suppose for a moment, that you should be unaware that Captain Pilfold stands in precisely the same situation? Although Mrs. Pilford were alive for the purposes of this action; she is dead---you cannot hear what fell from her lips; she has made her representation to her husband, who has acted on this representation. As a husband, any of you would have done the same thing, had you been similarly situated. Therefore, in this respect, they are equal; but in one respect, the Plaintiff has the superiority, for there are two other persons there to bear testimony for him---Carder, the coachman, and Walters, the guard. And I ask you if they are precisely the sort of witnesses that Capt. Pilfold would like to call in a charge, in which both were, in some degree, involved---in which one of them was suspended, and afterwards discharged ---they are witnesses speaking here in their own case---and they are not the persons to whom Capt. Pilfold would be likely to trust his case.

Now, in considering this case, you will have to exercise more than common discretion: for I am sure you will allow

one to state, that a case more important for the interests of society, than the one you now conduct, does not exist. Gentlemen, we all of us, in every situation of life, often make use of these public conveyances; every man's wife, every man's child, may occasionally travel by them, and they are then under the care of those men who have the conduct and management of those public vehicles. How important then is it, that the persons entrusted with them should act with care and decorum, and still more important, that every complaint made against them should be entered on promptly, that the inquiry and investigation should be made at once.

And this leads me to an observation of my learned friend, that this case of the Plaintiff was decided on without inquiry or consideration. Do you believe that Sir Francis Freeling would take the statement of his relative or most intimate friend, as my friend was instructed to say, though, as I shall shew, without the slightest foundation, and proceed to discharge two guards of this office on the information of Capt. Pilfold alone, and without the slightest inquiry or investigation into the facts of the case. Why, gentlemen, I shall call Mr. Wedderburn, who was here, and instituted an inquiry, as was proved by Mr. Johnson, and he will shew that he instituted an inquiry, and had the friends of this man, Blake, before him; he had Carder and Walters before him, and he came to the conclusion, that the representation made by Mrs. Pilfold, and not the statement made by Carder and Walters, was true; and it was then, after this due inquiry, that this discharge took place.

The learned Sergeant then proceeded to argue, that the libel was the representation of Capt. Pilfold, of what his wife told him, made only to the Secretary of the Post Office, in the belief that it was true, and not shewn to any one else. He contended that it was the duty of Captain Pilfold to do what he did, under the circumstances of the case, and it would be the duty of every man to act in a similar manner, whenever he found a person conducting himself as the Plaintiff had done. He maintained that the letter, even if

untrue, could not be considered libellous, unless it could be shewn that the Plaintiff wrote it with a malicious intent. He then detailed the nature of the evidence he should offer, to shew that the Plaintiff was intoxicated, and proceeded to call the following witnesses for the defence:—

ALEXANDER WEDDERBURN.—*Examined by Mr. Jeremy.*—Are you inspector of the mail coaches and guards at the Post Office? Yes.

Did you, in the month of May, 1830, receive any instructions from Mr. Johnson, the superintendant, who has been called here to-day? I did.

What was it you received? I received a letter, dated on the 8th; it came on the 9th.

Have you got it with you? Yes.

Well, in consequence of that communication from Mr. Johnson did you proceed to Devonport? Yes.

For what purpose did you go there? To see Walters and Blake, and to see Capt. Pilfold.

Now, did you go to Elliott's? I did, sir.

Did you make any inquiries there? Yes, of the maid-servant.

What was her name? I don't know it.

Did you see either of the other parties? I saw Collins and Walters on board the *Sans Josef*.

Did you see Mrs. Pilford also? Yes.

Where was she? On board the ship.

Where did you see her? In the cabin.

I believe you did not see them altogether? I saw the captain with her.

Where did you see Blake? I met him first in the street, and he afterwards came to me at the London Inn.

Now, did you see him there? Yes, and read the letter to him.

What letter did you read to him? The letter that was sent from London.

Have you heard the letter that was read to-day? Yes.

Was that the letter that was read to Blake? I should think it was.

Have you any doubt about it? No.

Now, upon that occasion, did you hear Blake's story? Yes, sir, I did.

Mr. Justice Taunton.—Was the letter you read to him the letter addressed by Capt. Pilfold to Sir Francis Freeling? Yes, my Lord.

Mr. Jeremy.—Now, upon that occasion, what did he say to you? He denied the charge against him, but acknowledged that he tied his handkerchief round his head, and said he hoped he should not be sick.

Did he say anything more then, after he had so expressed himself to the latter? He was very much out of temper when he was speaking of it.

Respecting the letter? Yes.

Now, tell us all that he said about what took place in the coach, when he said, he hoped he should not be sick? Blake said the lady moved over to the other side of the coach.

Did he say anything else? He said nothing more than he would meet the charges that were brought against him.

Did he say any thing more about the charge in the coach? Not at the time. I told him it was very bad. When I came back from the *San Josef* I saw him again, and told him that if he would write a letter to Captain Pilfold, and say it was nothing but just and true, it should be passed over.

Mr. Justice Taunton.---What did he say to that? He denied that it was all true and said, that he never used the language.

Mr. Jeremy.—Did he say any thing more to you of what took place in the coach? No more than what I said to you.

Did you afterwards communicate to Walters the statement of Capt. Pilfold? Yes, I did.

(Mr. Justice Taunton reprimanded the witness for not speaking out.)

Blake was angry with Walters for going on board the *San Josef*, and begging the lady's pardon; Walters said he did not care about that, he had his family to mind as well as Blake had his.

Mr. Justice Taunton. To what is all this to lead, if you mean to contradict Walters, there is a certain well ascertained mode of doing it, which is by putting it in words and asking him if Walters had said those words.

Mr. Jeremy. You know my question to you was, whether you communicated to Walters the statement which Capt. Pilfold had made to the Post Office of this transaction? I considered that I did; I am sure that I did, I think that I did.

Had you the letter with you at that time? I read it to Blake.

Mr. Justice Taunton. If you mean to contradict Walters, the proper way is to put to the witness questions leading to that point—that is the only way you can do it, Mr. Jeremy.

Mr. Jeremy. Now, did you not talk with Walters more than once on the subject? I think I did twice.

Did you take down his answer? Yes.

Did you afterwards examine Mrs. Pilfold? Yes.

Did you take down what she communicated to you? I did.

Did you examine Carder? Yes, I did, sir.

Did you take down what he said on the subject? Yes, I did.

Did you examine any other person on the subject; You have mentioned a maid servant at the inn?

Mr. Justice Taunton to Mr. Jeremy. I have not got any thing about examining a maid servant at an inn.

Mr. Jeremy. Did you make a report in consequence of what you heard from these different persons? Yes, I went to Devonport.

Mr. Justice Taunton again interrupted the witness. His Lordship said, that I have heard nothing at all about the maid servant. Don't let it be said, that the witness has been examined about the maid servant, and that I did not hear it.

Mr. Jeremy. Not having examined the witness, did you report to the Post Office? I did, sir.

Now when did you make this report? On the 13th of May.

What was the day of the month you went down to Devonport? I left there on the 10th.

And two days afterwards you made the report? Yes.

Have you a copy of that report? No.

Now, I believe, in consequence, or after that, you received some instructions respecting the dismissal? Yes.

And were the two guards dismissed? Both of them.

Do you recollect hearing the Plaintiff, Blake, say any thing about splitting? He was very angry with Walters for going on board the *San Josef;* he said he had done what he ought not to have done—what spoilt the job.

Now, do you recollect any thing being said about splitting? No, spoil the job were the words.

You don't recollect any thing more than that? No.

Cross-examined by Mr. Follett. You say, you saw Capt. Pilfold and Mrs. Pilfold on board the *San Josef.* What day was that? On the 11th.

Were did you see them? In the cabin.

Were they sitting there? The lady was on a couch, the Captain was standing up.

What time was it? About twelve o'clock in the day.

Did you go more than once? Not more than once.

You never saw Blake and Mrs. Pilfold together? No, Sir.

Nor Blake and Capt. Pilfold? No, Sir.

Nor any of these people? No, Sir.

Now you say you had this talk with Blake?

Mr. Justice Taunton. I thought you said you took their answers down in writing?—I put down no answers on board the ship. I examined Mrs. Pilfold and put down her answers; I examined Walters and took down his answer.

Mr. Justice Taunton. Now, what does he mean to say, I took down their answers and he has just said that nothing was taken down in writing but that report.

Wedderburn. I made that report of what I took down.

Mr. Follett. Just attend to me, did you make any other remarks in writing besides the report? No.

Mr. Justice Taunton. When you examined Mrs. Pilfold, Walters and these people, did you put down in writing what they told you? Yes, my Lord.

Then how came you to say you put down nothing in writing but that report? Now, besides that report and that copy, had you any other writings whatever? No, I had not.

Mr. Follett. You did not take down the answers at the time, but you afterwards put them into the report and sent them up? I made a duplicate copy and sent it up.

Mr. Justice Taunton. Now, you say, that you did not take them down—recollect? Not at the time my Lord.

Mr. Follett. Now you have talked of this conversation which you had with Walters—did Walters positively say, that Blake was not drunk? He said, that he had taken a glass, but he was not drunk.

Did Blake tell you in the course of the conversation that he had with you, that he did not give the lady the least insult, and made use of no improper language? He did.

Now, you have told us, Wedderburn, what Blake said in the coach—that he had tied his handkerchief round his head, and hoped he should not be sick. Will you also state what he said before he got out of the coach, "he said, "Madam, am I offensive to you?" and the lady said "yes?" He did.

Did he tell you also, that they had only gone a short distance, and was only in the coach a few minutes? Yes, he did.

He desired the guard to ask the lady how he had offended her? I don't recollect.

Now, did you tell Blake that Walters had been on board the ship, and asked Capt. Pilfold's pardon, as well as Mrs. Pilfold's? He knew it before I told him.

Did he say to you, that he would not apologise to the lady for he had done no wrong? He did.

You say you had some talk with Carder also? Yes.

Did the coachman tell you also that Blake was not drunk? I believe he did.

Re-examined by Mr. Sergeant Coleridge. So, Walters, Carder, and Blake all protested their innocence? Yes, they all protested.

James Williams examined by Mr. Sergeant Coleridge. Were you guard of the Dorchester Mail in 1830? Yes.

On the 2d of May? Yes.

That is the London Mail to this place? Yes, Sir.

I believe you took the Mail from Dorchester? Yes, Sir.

Do you remember this lady, Mrs. Pilfold coming that day? Yes.

Did you see her get in at Dorchester? Yes.

Was she perfectly well when you brought her to Exeter? Yes.

You put her down at the New London Inn? I did.

Cross-examined by Mr. Follett. What did you see of the lady in the course of her journey? Nothing.

You handed her in and put her out? The waiters do that.

You did not even do so much as that? The waiters do that.

You know nothing more than that she travelled by the coach? No,

MARIA BEASLEY *examined by Mr. Jeremy.* Does your father keep the Sun at Newton Bushell, where the Mail puts up? Yes.

And did so in May, 1830? Yes, Sir.

Do you know Blake? I do.

That is the second stage from Exeter? It is, Sir.

Now, you say that you know Blake, do you remember the night of the 2d of May, when he went down by the Mail? Yes.

Do you remember seeing him come into the bar of the Inn?—Yes.

Did he order anything to drink?—He did—he took spirits and water?—I believe it was brandy.

Did he order anything for any body but himself? Yes, he did.

For whom? For Carder, the Coachman, and for a Postillion, who had been living with my father.

Now, did you observe in what state he was, as to sobriety? Was he at the time sober or otherwise? I don't consider he was sober.

Now, did he do anything from which you formed the conclusion that he was not sober? His manners were very different from what I had before seen.

Now, with regard to yourself, what was his behaviour? His manners were anything but respectful.

Do you mean to say that he took any liberties—did he speak to you, or what did he do or say? He spoke to me in a more familiar manner than it was usual for Guards of the Coaches to do, or what he has ever done before.

Now, besides that manner of speaking, did he take liberties of any sort? No, Sir.

Can you recollect any particular expression that he made use of? No, Sir, I cannot.

From his manner altogether did you draw the conclusion you spoke of? I did.

GEORGE SLYFIELD—*Examined by Mr. Jeremy*—Did you, in the month of May, 1830, keep the Tavern Inn, at Erme Bridge? Yes.

Are you one of the Mail Proprietors? I am.

Of the Bath, Bristol, and Devonport Mail? Yes.

I believe the coach changes horses at your house? Yes.

Do you recollect the night of the 2nd of May, 1830, when Mrs. Pilfold was passenger? Yes.

Was she the only passenger in the coach? The only passenger in the coach.

Were there any outside passengers besides the Guard, the Coachman, and Blake?—There were only three outside.

Now, did you see the coach come up to the door?—I did.

Who was driving?—Blake.

Was that the proper thing?—Certainly not.

Who was the regular Coachman of the evening? Carder.

Then, I ask you, whether it was regular for Blake to be

driving the coach ?—No—he was a stranger on our road—he never worked on our road.

Do you recollect how he was drest ? He was dressed in dark clothes.

Now, I ask you, whether that was regular for a person in his situation ? No, it was not.

Did you make any observation ? No.

Were there any circumstances which induced you not to make them ? When they came into the bar, I immediately saw what state they were in, and I immediately thought it prudent not to say anything to them about it that night.

Now, what was the appearance you noticed ? They all three appeared to me to have been drinking.

You say they appeared to you to have been drinking—in what degree ?—They appeared to me all of them to have had enough.

Now, what would you say as to their degree of sobriety ? I took particular notice of Blake, because he was driving, that was my reason for taking so much notice of him—I took more notice of him than of the coachman or guard.

Being the person that was driving ?—Yes.

Then, I will ask you, whether, in your judgment he was sober or not ?—No—he appeared to me what I should term half-seas-over.

You say it was from their appearance that induced you not to take any notice of it that night ?—It was.

Now, upon their coming into the bar, did Blake do anything ?—He did.

Did he order anything ?—He did.

What did he order ?—He came into the bar and said, make us three glasses of brandy and water—I saw them drink it.

Now, do you know a man of the name of Gasking ?—Yes, Sir.

And Elizabeth Gasking, his daughter ? I do.

Do you recollect going to Gasking's house in company with Mr. Gilbard ? Yes.

Now, did you hear Elizabeth Gasking say that Blake

was drowsy or sleepy, and lay his head on his hand on the table, while he stopped at her father's house—that the guard Walters offered him to get inside at her house, but did not?

Mr. Justice Taunton objected to this manner of putting the question.

Did she or did she not say, in the presence of you and Mr. Gilbard, that Blake was drowsy or sleépy, and laid his head on his hand at the table?—Did she say that?

She did, Sir, whilst he stopped at her father's house to drink a glass of negus—Did she say that the guard, Walters, offered him to get inside the coach, because he was so drowsy?—Yes, Sir, but that she did not know if he got in.

Now, do you recollect, in the same conversation, hearing the father say, that he could not swear that he was sober? Yes, Sir.

And did or did not Elizabeth Gasking say, "I will?" Yes, and he immediately said, "so will I."

Cross-examined by Mr. Follett—In this conversation, Mr. Slyfield, that you had with this young woman, who told you that he was drowsy and sleepy, did she also say that she would swear that he was sober?—Yes.

Pray, Mr. Slyfield, what are you? I keep the Fawn Hotel, at Erme Bridge, and likewise the Post Office.

What had you to do with this business? What business?

Why, going about making these enquiries? I merely rode up to New-house with Mr. Gilbard.

Did you ride nowhere else with Mr. Gilbard? No, Sir.

You went nowhere else at all? Nowhere else that I know of.

Well, but I should like to know—Did you go anywhere else? Not that I recollect.

How came you to go to this place? I drove him up—he came out of the coach to my house, and I drove him up—he said he was going to New-house.

Did you drive him anywhere else? Not that I know of.

Pray, did you take this down in writing?—No, I did not—neither did I ask her any questions.

But this long sentence, which my friend has stated to you, is impressed on your memory ?—It is.

You are not mistaken about one word ? No.

You are quite sure that is all in the order in which my learned friend has put it to you ? Yes.

What was it she said to Mr. Gilbard, respecting Blake ? Why, that Blake had been drowsy and sleepy, and had put his hand on his head, and leaned on the table.

That was what she said, was it ? Yes.

Now, you say, Mr. Slyfield, that you observed at the time, that these people were not sober the night they came to your house ? Yes, I did.

But let me understand what you mean—Do you mean, upon you oath, to say, that they were not sober ? Yes.

Now, I ask you, on your oath, do you mean to say, that you did not say Blake was sober at the time ? I have not.

Was he very drunk ?—Very drunk ! no, certainly, he had enough.

Do speak up—I ask you if he was very drunk ? No, not very drunk.

Was he drunk at all ? He certainly appeared to me to be in liquor.

I would rather that you would answer my question—was he drunk ? I should say that he had been drinking, and that he had enough.

Mr. Justice Taunton—Innkeepers have various degress of drunkenness.

Mr. Follett—Will you venture to say that he was in drink ? Yes, he was in liquor.

Pray, Mr. Slyfield, have you been drinking yourself ?—Yes.

Have you been drinking since dinner ? I have not yet dined.

Have you had a glass of brandy and water ? No—I have had soda water.

But that was for something else ? I had a drop of sherry wine in it.

Now, are you quite sure you have taken nothing but what you have said? Not since breakfast.

You are one of the contractors for horsing the Mail?—No, Sir, not a contractor, one of the proprietors.

You knew that this lady was alone that night? She was the only one in the bill—I did not look inside the coach to see.

You had no reason to suppose there was any other? No.

You gave them three glasses of brandy and water by Blake's order? Yes.

Now, who drove the coach when it went away? The proper coachman.

Now, I ask you, whether you did not say to this gentleman here, Mr. Stracy, that Blake was perfectly sober? I did not.

Re-examined—Did Mr. Stracy come to examine you? Yes.

Did he produce a written paper for you to sign? Yes, he did—he told me that Mr. Gasking and his daughter had signed it—I refused.

Did he use any threats? He wanted to know the reason why I should not sign it.

Now, with regard to your going with Mr. Gilbard, you say that he came to your house?

Mr. Justice Taunton—Who is Mr. Stracy?

Mr. Sergeant Coleridge—He is Plaintiff's Attorney.

Mr. Jeremy—He has taken a very active interest in this case.

Mr. Justice Taunton—I can only say, that you did perfectly right in refusing to sign your name to any paper binding yourself to any statement whatever.

Mr. Sergeant Coleridge—(Re-examination)—Did the gentleman, Mr. Stracy, represent himself to be the Attorney? He did not tell me what he was—I concluded that he was.

Now, you say that Mr. Gilbard came out to your house by the coach to make inquiries about the matter? Yes.

Then, Mr. Gilbard went on to New-house? Yes.

Did he hire a carriage at your house? Yes, my car.

Had you any post boy at your house at the time ?—No, I drove him.

Now, you have been asked several times about sober or drunk—was Blake sober ?—No, he was not.

Mr. GILBARD—*Examined by Mr. Sergeant Coleridge*—You are Defendant's Attorney in this case ?—I am.

What is your christian name ?—James.

Do you remember going with the last witness to Newhouse ? Perfectly well.

Do you remember seeing old Gasking and his daughter ? Certainly.

Now, upon that occasion, did Elizabeth Gasking say, that Blake was drowsy and sleepy, and laid his head on the table, while he stopped at the father's house to take negus—do you remember that ?—Yes, as regards his head on the table.

Miss Gasking—Gilbard, he leaned his head on his hand and his hand on the table.

Mr. Sergeant Coleridge—Did she say the guard, Walters offered him to get inside the coach because he was so sleepy—was it drowsy or sleepy ?—Drowsy was the word.

Now, did you ask old Gasking whether he could swear Blake was sober or not ?—I did.

Did he say he could not swear he was sober ?—He did after some little hesitation.

Was she present at the time ?—Who ? the daughter.

Yes.

She was in a small-room, the door of which was open, and on catching the tone of this, she said, " but I will though."

Then did he say, " so will I ?"—Yes, he did.

JOHN MITCHELL—*Examined by Mr. Jeremy*—Were you, in the month of May, 1830, the waiter at Mr. Slyfield's, the Fawn Hotel ?—Yes, Sir.

Where do you live now ?—In Plymouth.

You have left his service ?—Yes, Sir.

Do you recollect upon that night the Mail coach coming in ?—Yes, Sir.

Do you recollect the two guards of the coach coming into the house? Yes.

Did they call for anything?—Blake ordered three glasses of brandy and water.

Was it supplied them?—Yes.

Did they drink it?—They did.

Upon that occasion did you take any notice of their state? I saw they had all been drinking.

Well, in what state did they appear as to their being sober or not?—They appeared to be more than half-slewed.

Are you a sailor?—No, Sir, that is a common word they make use of, instead of saying half drunk, they say half-slewed.

Mr. Justice Taunton—Do you mean half-drunk?—Yes.

Well, use a term which every one can understand.

Mr. Jeremy—Now, did you see them go away?—Yes.

Well, had any of them cigars?—They all lighted a cigar each.

Did you see them mount and go away?—I did.

Cross-examined by Mr. Follett—Where did they get the cigars.

RICHARD MORRIS—*Examined by Mr. Sergeant Coleridge*—Mr. Morris, are you one of the Mail coach proprietors?—No, Sir.

You were in May, 1830?—Yes.

Did you keep the King's Arms Inn, at Plymouth, at that time?—Yes.

You have left it now?—Yes.

Do you remember the Mail coach coming to your house on the night of the 2nd of May, and Blake coming up to you then?—I do.

Mr. Justice Taunton—He came by the coach did he?—Yes.

Mr. Sergeant Coleridge—What did he say to you?—He came in, and said there was a lady in the coach who said he had insulted her, and he begged I would come and speak to her.

Now, did you come out?—I did.

Did he go before you?—I followed him.

When he came out, did he go to the coach door?—I was close to him—he opened the door, and said—"here is Mr. Morris, if you have any complaint to make against me.

What was his manner of speaking to her? His manner was not what I should have expected from a servant—it was in a high tone, such as I should not have made use of by myself.

Now, did you observe the lady in the coach?—I did.

What did she do on his speaking in this way?—As soon as the door was open she withdrew to the other side of the coach, and said—" Shut the door, shut the door," with that I immediately withdrew.

Did she appear to you to be alarmed?—Yes—she appeared to be very much agitated.

Now did you observe Blake's manner so as to be able to judge at the time whether he was sober or not? The only observation I made was, as to his address to the lady—it was such as made an impression in my mind that he had been drinking.

From the state you saw the lady, did it appear to you that she ought to have a companion to go with her? I did.

Now did that gentleman, Mr. Stracy (whether he is attorney or not), come to you also? Yes, he did.

Well, upon your refusing to sign the paper, did he use any strong language to you? He said, I had " better take care what I said," he shook his head, he did it a second time.

Did he inquire as to the state of sobriety in which Blake was? He made general inquiries, but when he wished me to sign this document, " Sir," said I, " I will neither answer your questions nor sign your papers." I said to him the second time, " Sir, don't come here with your threats."

Did Mr. Gilbard, or any body else apply to you at that time? No.

Cross-examined by Mr. Follett. How did you say that to Mr. Stracy, in a high and dignified manner? I felt a little annoyed.

You were a little hurt when you told him, you would not sign his note, or answer any question? I was.

And you answered him as if you felt a little hurt? I did.

Now, as you say, Mr. Stracy wanted you to sign the paper, did he tell you what it was for? I read a part of it.

It was to send to the Post Office? I am not aware that it was.

Now, before he asked you to sign that paper, did you not say to him, that Blake was perfectly sober? I don't recollect saying any such thing.

Mr. Morris, will you venture to swear, that before you were asked to sign that paper, you had not said that Blake was sober? I can't recollect—I paid very little attention to Mr. Stracy.

I ask you, will you venture to swear that you had not said that Blake was sober? I will not—I don't recollect.

Did you not also say, Sir, to another person who came to you, that Blake was perfectly sober? I don't recollect saying anything of the sort.

Do you know a person of the name of Gill? I do.

Did you not say to him that Blake was perfectly sober? No, I don't recollect—I recollect seeing Mr. Gill. I can't charge my memory with speaking any thing of the sort.

My question to you is, will you venture to swear that you did not say so? I will not—I will not venture to swear any way, unless I am very sure of it.

Now what did you see of the lady? I merely went to the coach door.

You saw her in the coach and that was all? Yes.

You did not speak to her at all? Not a word.

What time of night was this? Between the hours of twelve and one.

Did you send any one on to Devonport with her? I did not.

The only thing you observed about her, was on his addressing the lady? Yes.

Re-examined. Did Blake go on with the coach? He did, I believe.

Who is this man Gill? He had been a cook and confectioner, I got him a situation in the steam packet? He used to come and annoy me about this.

Did Gill come to *wire-draw you*? I think he did—he came very often and annoyed me.

Did he come with Mr. Stracy? No, he was alone.

Pray when did Gill come? I don't know, it was previous to last assizes.

Now you say, on this night, from what you saw, Plaintiff was not sober? I think so, the impression on my mind was, that he was not sober.

AGNES DANIEL *examined by Mr. Jeremy.*—Were you, in the month of May, 1830, chamber-maid at Elliott's Hotel, Devonport? I was, Sir.

Do you know Blake? I do.

Is that the Hotel where the Mail comes? Yes, Sir.

I believe you know Blake, the guard of the London Mail? Yes, Sir.

Have you known him long? About six years.

You were subpœnaed by him, were you not—you came up as his witness? Yes.

Now, do you recollect on the night of the 2d of May, the Mail coming in? Yes.

Do you recollect a lady, Mrs. Pilfold, coming in alone? Yes.

Now you must now tell us what she said to you—did she complain to you? Yes, she did.

Did you observe whether she appeared in an agitated state or not? She was, but I considered it to be the fatigue of her journey.

Was she recommended to take any brandy and water? I took her a glass of spirit and water to her bed room.

Did you see how much she drank of it? I did not.

Were you afterwards called up in the middle of the night to attend her? Yes.

Did you take her some tea? Yes.

In her bed room, while in bed? I believe so. Yes.

What time did she leave your house in the morning? I did not see her after I had taken this tea in the night.

Cross-examined by Mr. Follett.—You don't know whether she drank the brandy and water or not? She was drinking it.

Re-examined. Do you remember whether she left any—Did you find any in the chamber next morning? No, I did not take it away.

JANE GREGORY.—*Examined by Mr. Sergeant Coleridge.* What is your name now? Jane Dadden.

Did you live with Mrs. Pilfold on board the *San Josef*? You have left their service now? Yes, Sir.

Now, do you remember, on the morning of the 3d of May, Mrs. Pilfold returning on board the ship, the *San Josef*? Yes, Sir.

About what time? About eight o'clock.

Did she sit up, or go to bed? She went to bed very soon.

Did she become ill? Yes, very ill.

Pray was a medical man, Mr. Tripe, sent for? Yes.

Now, what was her state for the next two or three days? Very ill, and confined to her bed very long.

Was she in her senses all the time? No, she was delirious for several days.

Now what sort of expressions did she make use of?

Mr. Follett (to the witness). Never mind that question.

Mr. Justice Taunton refused to allow the question to be put.

Mr. Jeremy. Now, do you remember Walters coming on board? Yes, I do.

Did he come once or twice? He came twice.

Did he see your mistress the first time he came? No.

Why not? She was not well enough to see him.

Well, the second time he came, did he see Captain and Mrs. Pilfold? Yes, I think it was the second.

Did you see him go down on his knees and beg your mistress's pardon? Yes.

Now, upon that occasion did he say he had done wrong

in allowing Blake to get inside; but he was so drunk he could not ride out? Yes, he did.

Was the word drunk or tipsy? I think it was drunk.

Cross-examined by Mr. Follett.—Pray where were you at the time Walters was there? In the parlor.

In the same parlor with them? Yes.

You heard all that passed between the parties? Capt. Pilfold was not there; it was only Mrs. Pilfold, Walters and me.

Now, repeat what Walters said about Blake going inside? He said he was so drunk he could not ride outside?

That was what Walters said? Yes.

Now did he say anything more about his going inside?—No, he said that he was so drunk that he could not ride outside.

Re-examined.—What did he say of his own conduct?—He said he was very sorry, and hoped she would forgive him for letting him into the coach.

I believe you have been lately confined? Yes, sir. (Witness appeared to be ill).

ELLEN PILFOLD.—*Examined by Sergeant Coleridge.*—Miss Pilfold, are you the daughter of Capt. Pilfold? Yes.

Pray have you a sister called Emma? Yes, I have.

Had she gone on a visit to Dorchester? Yes, and so Ma went to see her.

Pray are you any relation of Sir Francis Freeling? Not the slightest.

Is there any intimacy between your family and the Freelings? I never heard of them.

Do you remember being on board the *San Josef* when Walters came on board? Yes, perfectly well.

Was Jane Daddon living with you at the time? Yes.

Did she see him come? She was there.

Did Walters see her? Yes.

Now do you remember Walters falling down on his knees, and begging pardon? Perfectly.

What did he say about Blake's being put inside? He

said that Blake was very drunk, he said he put him inside, because he was so drunk he could not ride on the outside.

Now, did you see Walters on both the times that he came to the ship? Yes, I saw him.

Did he see your mother once or twice? Once only.

Why did he not see her the first time? Mama was much too violently ill.

Now, while Walters was there was there any thing said about your father's statement of Blake's language? He said he had my father's statement of what passed when the coach stopped, and it was correct.

Did he say any thing about the statement which your father had made to the Post Office?

Mr. Follett.—I object to that question.

Mr. Sergeant Coleridge.—Did he say, at that time, that he had seen your father's statement? He said he had heard it read.

Now, did he say that the charge of using violent and improper language to your mother was true? Yes, particularly that as to the *rat's hole.*

What was that expression? I remember that he said he asked from what rat's hole she came from.

WILLIAM ELLIOTT.—*Examined by Mr. Jeremy.*—Where do you live, Mr. Elliott? At the Royal Hotel, Devonport.

Are you one of the mail proprietors? Yes.

How long have you been acquainted with Blake? I have known him for many years; I should think seven.

Do you recollect any thing as to his ordinary language on any occasion? Not particularly, but that of rat's hole, I have heard him make use of, and once very much.

In what way, and on what occasion? It was a person who was brought down by the mail, and did not please him very well; and he asked of that person what rat's hole he came from.

CORNELIUS TRIPE.—*Examined by Mr. Sergeant Coleridge.*—You live at Devonport, Mr. Tripe, and are a surgeon in very considerable practice we all know. Do you

attend the family of Capt. Pilfold and Mrs. Pilfold? Yes, sir.

Do you remember being called in on the morning of the 3rd of May, 1830, to attend her on board the *San Josef?* —Perfectly well.

How long before that was it that you had been last called? Nearly twelve months.

During that time, did you attend any member of the family? Yes, Mrs. Pilfold, I recollect finding her in bed, very ill, labouring under excessive mental agitation, with delirium and other symptoms of very considerable fever. She had frequently moved herself suddenly from one side of the bed to the other, and uttered, I could not tell what delirious conversation.

How long did she remain ill? She required active means during a week.

How long was she ill? Till that time was fully expired.

How long did she remain under your care? I only saw her for a week, but I did not consider her under my care after the week; but from going on board, I had reason to know that she remained ill and weak for three months after that.

During the first day or two, did she appear to be in a state of illness at all alarming? Perfectly dangerous.

Now, previously to this occasion, had you ever seen any symptom of this strong kind about her? Never.

Now, while she was in this state, did you receive from Capt. Pilfold any statement of something that occurred to her to alarm her? Yes, in the progress of the case I caught different particulars.

I don't ask you, that you had such a statement? Yes, I had.

Now, were the symptoms so exhibited then such as would be the result, supposing the statement to be true? Certainly.

I am told that Capt. Pilfold is in a sad state of health? —He is.

Cross-examined.—Can you tell me what was the matter with this lady—was it fever? A considerable state of high*

* I don't recollect the word used.

Well, put it in plain language—Was not this lady suffering under fever at the time? She was.

Did you know that she had been a journey to Dorchester at the time to see her daughter, who was sick? I understood that

Did you see that she had undergone great fatigue? Yes.

Had you known any one ever exhibit the same symptoms from fatigue? I never saw such appearances proceed from fatigue in a journey in my life.

I don't suppose you did; that is not what I am asking you. I am asking you, if you have not known fresh attacks of fever follow fatigue? I have known myself feverish cases after fatigue.

Can you always trace feverish attacks, or does it not sometimes baffle you? Sometimes.

I suppose you have found people in such a state of fever? Yes.

Re-examined.—I don't ask you what you said, or did; but whether you, as a scientific man, were able to connect her illness with the treatment she had suffered? I was!

Edward Lyne.—*Examined by Mr. Jeremy.*—Where do you live? At Devonport.

You married Mrs. Gonda? Yes.

Do you recollect, after this circumstance, Walters calling at your house? I do.

About what time? I don't recollect—about a month or six weeks afterwards.

Now, had you sent for him; or what made him come to your house? I did not know him.

Then I suppose you did not send for him? No.

Then what was his object? He came to Mrs. Lyne, in my presence, and told her he was dismissed as guard of the mail coach. She asked him to relate his story to me. I then asked him the cause, his answer was, for placing Blake inside the mail coach, or allowing Blake to go inside the mail coach.

Mr. Justice Taunton.—For putting him inside the coach; that is the plain English of what he said? Yes, my Lord.

Now, upon that occasion, did he say he had no idea that Blake was in the state he was, or he would not have let him got inside with the lady? He did.

Did he say, at the bottom of Kitley-hill, he had much difficulty in preventing Blake getting in the coach again, as he was very violent? He did.

Cross-examined by Mr. Follett—You say he had come to Mrs. Lyne for the purpose of asking her to intercede for him?—Yes.

He had known Mrs. Lyne before?—I believe so.

You could observe, by the way in which they accosted one another, whether they had seen each other before? Oh, no doubt of that.

Well, he had come to ask her to intercede for him—do you know whether she had not sent for him?—I believe not.

Mr. Justice Taunton—Well, if you don't know, say so, you are not obliged to know everything that is asked, you don't know?—I believe not.

Mr. Follett—You say that he said Blake was very violent at the bottom of Kitley-hill—who did he say that to?—To me.

Had you asked him any questions about it?—Mrs. Lyne applied to me, and said that he asked her, with tears in his eyes, to desire me to use my influence to reinstate him.

Were you desired to ask him any questions?—I did it voluntarily by myself, before I would use my influence for him.

Had any body told you to ask him any questions?—No, I knew nothing of the case before.

Now, when was this?—I can't say whether it was in the month of June or July, 1830.

How soon might you have mentioned this?—I can't say —I might have mentioned it to Mr. Elliott next day.

I do not ask you what you might have done—were you up at the last Assizes?—Yes.

How long before the last assizes was it that you told Mr. Gilbard of it?—I don't know.

Re-examined—Had either Mr. Gilbard or Capt. Pilford instigated you to ask questions?—No.

Mr. Justice Taunton—He said that no one had asked him—therefore, if no one had, no particular person had.

Mr. Follett—The case has taken so much time, that I will endeavour to be as brief as possible; but, before I proceed further, I must beg of you to dismiss from your minds all that has been produced in evidence that is likely to lead to prejudice on one side or the other. Gentlemen, I say this at the outset, because I was not aware till this trial had proceeded some way, of the unfortunate state of health of Captain Pilfold—the first time I heard of it was in the questions answered from the witness-box. But some one, I suppose, must have defended this action—some one, I suppose, must have given instructions to the Attorney. If Captain Pilfold himself is not in a state to do so, some one interested in the matter, and fully authorised to act for him, has done it.

Blake, the Plaintiff in this action, was guilty of improper conduct in going into the coach at night—but if he had been guilty of all the improper conduct that was imputed to him, it does not justify that letter, for there is no charge in that letter, however serious, that is not refuted in the evidence. They have stated that the charges contained in that letter are true, and they have now come here to prove their truth, but they have entirely failed in doing so—because there is scarcely anything in all they have shewn that bears upon the question at issue. We have come here for the purpose of shewing that the Plaintiff is an ill-used and injured man, and that, by the misrepresentations of the Defendant, he has been deprived of his bread and means of sustenance—we have not come here from any vindictive motive.

Gentlemen, having admitted what my learned friend has introduced into this case, let me say one word on the nature of the evidence. My learned friend would have you believe that because a lady, at the age of 60, and who, I presume, had travelled before in the course of her life—that because

she was inside this stage coach for the space of five minutes, whilst the Mail-coach was running a short mile—that because she was in that time—and she herself admits that he never touched the hem of her garment, and my learned friend himself believes he never did her any harm—yet he would have you believe that those effects were produced which you heard so formally described by the surgeon.

Gentlemen, any body may very easily account for her illness—it does not necessarily astonish us to find her so. It requires no medical skill to tell us that a person at her time of life, visiting a sick child—coming from Dorchester to Exeter, at four o'clock, and at six o'clock starting for Devonport, that she will be very much fatigued by her journey, and if she should take cold, and be laid up with a fever, for the space of a fortnight, however much it may be regretted, it is not a matter to create surprise. In all probability, I think, this is not unlikely to have been the real state of the case.

Now, what does the Defendant do? Immediately on her arrival, without waiting to hear the real facts of the case from her in her cooler moments—Captain Pilfold sat down and wrote that letter, which it had been far better had not been written at all—that letter, no one allegation of which has been substantiated, whilst Mrs. Pilfold herself has admitted its untruth, by stating that he did not mean to do her any harm at all—how then, can they come here to day and ask you for a verdict?

Now, Gentlemen, having made these observations at the outset, I would beg to call your attention to the course proceeded in by my learned friend—because he had attempted evidence to support the statements of the letter—he had called witnesses for the purpose of contradicting my witnesses—has he done so? Has he proved to you those charges which were made by Capt. Pilfold in that letter have been borne out in evidence? If he had believed they could himself, would he have attempted, at the outset, to stop the case, by raising the question, as to the letter being an official communication. My learned friend said, that

although you were satisfied that every word in that letter was false, yet you could not produce it against the person who wrote it, because it was a privileged communication.

[The learned gentleman now went into the law on the subject of privileged communications, admitting that a master, giving a servant a character, when desired to do so, was a privileged communication, because he does not voluntarily give it; but he added, if a man do any act which is injurious to another, the *cause* for which he cannot justify fully, the law will hold him liable.]

Now, what was Captain Pilfold's letter but a most injurious act, which he could not justify—an act done, too, on the report of another person, and without adequate grounds or sufficient inquiry—and the Post Office have believed his statement, because the parties are in different stations in life. We can prove that the dismissal arose solely from the weight put on the communication, through Captain Pilfold's situation in life.

[The learned gentleman now read the letter of Captain Pilfold, dwelling on the assertion which it contained, that the Plaintiff was in a high state of drunkenness. He shewed that none of the allegations had been fully made out, and contended, by the evidence, that the Plaintiff was entitled to a verdict. The object sought was not to recover damages to any amount. The Plaintiff merely sought, as an honest man, to remove a stigma unjustly placed on his character, and any damages, however small, would effect this object. By the verdict of the Jury in his favor, he would go forth from that Court once more re-instated in the good opinion of the world, and with proper means for obtaining his livelihood, and which he had never forfeited by any act of his own.]

His Lordship now summed up.

Gentlemen of the Jury,—This is an action brought by William Blake, against John Pilfold, who, it appears, is a captain in his Majesty's navy, for damages sustained by him, in consequence of Defendant having published a libel against him.

The Foreman of the Jury.—My lord, we do not wish to have the evidence read over, being satisfied with the evidence adduced by the Plaintiff, this day; but if there are any technicalities of law that your Lordship may think proper to detail to us, we shall be happy to hear such.

Mr. Justice Taunton.—After stating that the Defendant published this libel, he said, by means whereof he was brought to public scandal, and by means whereof he was brought out of employ, and prevented obtaining employment—

Now, certainly, if you are of opinion that he is entitled to your verdict, with a view to the question of damages, it will be for you to take into consideration, whether or not the loss of the Plaintiff's situation is altogether owing to the communication made by the Defendant; because it appears that the Plaintiff was not forthwith discharged; he was not discharged till Mr. Wedderburn had made inquiries on the subject. Now, whether the Plaintiff was dismissed in consequence of the letter of the Defendant, or whether he was dismissed in consequence of the report made by Wedderburn, we know not; whether the charge made by Wedderburn is justly to be imputed the cause, or whether the Defendant's charge, we are in a very considerable state of uncertainty; though the immediate consequence of the Defendant's communication may have been the inquiry into the Paintiff's conduct. If you should be of opinion, in the sequel, that the Plaintiff is entitled to your verdict, and that his declaration, which is so lengthy, is true, you will then have to consider what damages the Plaintiff is entitled to. It is not necessary that I should tell you that the Defendant has pleaded Not Guilty. He has also pleaded that the libel complained of is true, and there are no less than twelve pleas of justification in the Defendant's. It is not necessary that all these pleas shall be made out, but in looking at it, as this case has been going on, it appears to me, that in most of these pleas there is no evidence to justify one-fourth of the charges contained in the letter.

The only pleas of justification, of which it appears to me

there is any evidence, are those pleas which justify the libel with respect to the charge of drunkenness. There has been another question raised, and a deal of contradictory evidence. If you believe the Plaintiff was at this time in a state of drunkenness, then these pleas do not cover the whole of the libel.

But it does not appear to me that there is any evidence to prove those pleas, except the pleas of drunkenness.

But there is another most material question for you to consider, and that is, the Defendant has put in the plea of *Not Guilty*. Now, it appears to me, that the law has been laid down on this subject fully and very correctly, by the learned Counsel for the Plaintiff. Gentlemen, where the libel on the inflammatory words, that is to say, inflammatory language, have been used, be it either in writing, or by word of mouth, to the injury of another person, the law implies malice—that is, the law implies the act by the effect.

But there are certain cases in which communications are privileged, which rebut the inference of this implied malice, and which requires the proof of express malice, or presumption of malice, which it is distinguishable and necessary to prove.

The occasions to which I allude, as being *primâ faciæ* excusable, principally on account of the cause of speaking, occur in the case of a man giving a character to a servant; or confidential advice, or communications to public officers.

Now, these occasions of making communications are such as furnish, *primâ faciæ*, an excuse of the allegation itself. In these cases, it is necessary to shew, in order to rebut the *primâ faciæ* excuse, that the party was actuated by malice.

Now, I am of opinion, and I give it as my opinion, in point of law, that the present is an occasion in which the communication would have been excusable, provided the writer was *not actuated by any malicious motive.* Whether he was, or was not, is entirely a matter for your consideration and decision.

You see that this is a communication made by Captain Pilfold, from a statement of his wife, made to the Secretary

of the Post Office, and it was contended for the Defendant, that it was a secret communication. And if made with a belief at the time, of the truth of the statement—not a groundless belief—not a silly unfounded belief—a belief for which there was reasonable and probable cause, it would, in my humble judgment, be an innocent, harmless, communication, which the Defendant would not be wrong in making. But, if made in bad faith—if made without sufficient, reasonable, or probable cause—destitute of foundation for it—if made with exaggeration, or the facts distorted, or without proper caution—all these circumstances would rebut and destroy the excuse which the occasion would otherwise furnish, and would be so far an indication of malicious motives, such as would render this action sustainable.

Gentlemen, I know not whether I have made myself understood, but what I mean to state is this,—that if this communication was made by the Defendant, with every probability of its truth, and on reasonable grounds; yet, although it does not turn out strictly true, that would be a justification for making it. But if not made with good faith—if the circumstances are exaggerated or distorted—then you would have at once sufficient foundation for this action, and the Plaintiff, I think, would be entitled to recover damages. Now, it is not necessary to go into the origin of this action. If the Plaintiff bears so good a character, if he has conducted himself so well as guard of some of these coaches, that there has been a subscription made for him to bring this case here, I am sorry to hear it, because I consider it unjustifiable. The consequence of such a proceeding is to raise a sort of spirit of opposition and insult, which I hope will never be found to exist in these men. But, Gentlemen, whatever may have been his former conduct, there are some circumstances in the present occasion that were unpardonable. The conduct of all these parties, on the same occasion, was unjustifiable. It is not to be borne, that because they choose to take him up, they are to drink at all the public houses where they stop—that he is to treat the coachman and guard with as much as they like to drink, or are inclined to drink at all the houses on the road, is most intolerable. It is also

most intolerable, that this man, who was a stranger, should be permitted by the regular coachman to take the reins and drive—that he should be allowed to drive horses that he was not accustomed to drive—by which the lives of his Majesty's subjects might be endangered—and his masters be exposed to make pecuniary compensation to every person that might be injured. It was also most improper conduct of this coachman, or this guard, who have the management of these matters, to permit a common Mail-coach guard to get inside—to admit him in common dress—for there is no difference whether he is admitted inside in his usual livery or in coloured clothes. If admitted to the inside of a coach in which a lady is riding, who has paid her regular fare as an inside passenger, it is an insult to her—for a lady, who is the wife of an officer in his Majesty's navy, it is an insult to her to have a common Mail-coach guard put inside with her, even for a short space of time. This is the evidence on both sides, for she actually appealed to the coachman to know if there was room on the outside, and if the Plaintiff, Mr. Blake, had not got outside the coach, there is every reason to believe she would.

Now, all these circumstances prove conclusively, to my mind, that there was very improper conduct on this occasion —both in the regular coachman and regular guard, and also in the *gentleman* guard, on this occasion.

The representation made by the Defendant is by no means conformable to these circumstances; and, if I may be allowed to give an opinion of it, it is by no means a clear statement, it is a great deal too long—written in a great deal of passion.

He certainly states matters of blame, which it is necessary for me to call back your attention to the libel in question.

[The learned Judge now read the letter of Capt. Pilfold, as far as it related to the state of the Plaintiff, when he got inside the coach.]

Now, that this man was taken up, and put inside the coach, when he ought not to have been there, there is no doubt; but whether he was in a state of intoxication or not, there is no certainty. There is, on one side, thirteen witnesses; on the

other fifteen; most of them differ on that point. But of the gross and insulting language there is no proof. There is one matter, which I think is no trifling one, but that is for you to judge how far you will feel justified in placing any dependance on it. You find, among other things, he is charged with having said something to this effect.—"*Where did you come from?*" or, "*what Rat's hole do you come out of?*" As far as that expression goes, and it is a very striking one—it is proved to you, that it is an expression which the Plaintiff had used before. He had, on some former occasion, when he had quarrelled with a passenger, made use of that very expression to that very passenger.

Now, it is not very probable, that either Mrs. Pilfold, or Captain Pilfold, had ever invented that expression. Certainly—certainly, it does furnish a very strong probability that he must have made use of that same expression to Mrs. Pilfold, or otherwise it could not have been contained in this letter that Captain Pilfold wrote,

That fact will be entitled to your consideration.

The libel goes on to say, that he called her a "*bitch.*" Now, you see, there is no distinct evidence of this; there was only the Plaintiff on the one side, and the wife of the Defendant on the other, inside the coach; and the wife could not be examined as a witness for her husband. Nor can we know that Mrs. Pilfold communicated all these circumstances to her husband, and that he gave credit to her relation; and that, upon the faith he had on her veracity, he wrote that letter, is entirely a matter for your consideration.

The next point is, that he made use of language "too gross for females to repeat." There is no evidence whatever on this point.

"*Rat's hole.*" On this subject, you see, there is a presumption, which I have mentioned, namely, that it appears, that on a similar occasion, when he was out of temper with a passenger of the coach, he made use of this precisely same expression.

"*He mimiced her voice.*" That may be very impertinent,

but certainly should think perfectly beneath her notice, and only worthy of utter contempt, if he did so.

[His Lordship here made an observation which the reporter could not hear.]

It is in evidence, in point of fact, that Mrs. Pilfold was in a state of great mental excitement when she arrived home; that she was in a state of great mental delirium, you have it from the evidence of Mrs. Gregory, who was in her service before her marriage; and, lastly, you heard it from the medical gentleman. How far this mental agitation is to be imputed either to the fatigue she is supposed to have received from this journey, or otherwise, is for your consideration. I, myself, cannot pretend to determine the precise consequences which would arise from the circumstance of this Plaintiff's having intruded himself inside the coach when the lady was poorly. It seemed he was not there longer than while the mail coach was going down hill a short mile; but it was said, that the alarm and agitation of that illness might have been produced by this intrusion. This was said by the medical man, but he could not swear positively, but he believed it had produced the effect.

Service of the Post Office.—Now, all that stands on mere assertion. If Capt. Pilfold, as the husband of this lady, wrote the libel complained of to the Secretary of the Post Office, there certainly is, as I have already observed, no proof that it was that which caused his dismissal. As I have already said, there certainly is no proof for a great part of it. Yet, if you believe the communication was made *bonâ fide*, under a well-grounded belief that it was true—when I say a well-grounded belief, I mean a belief that rest on reasonable and probable causes—then this letter is not the subject matter of action.

If you believe it was made in *bad faith*---that the cause was a known improbability, entertained without sufficient grounds by the Defendant---*that* will furnish circumstances from which you will infer that the Defendant acted with

malicious motives, and in that case, undoubtedly, this action is maintained.

Now, with respect to malice, it is but fair that I should state to you, that it appears, up to this present time, the Defendant and his wife were perfect strangers to the Plaintiff, they could not have any previous grudge, they could not have owed each other ill-will previous to this transaction. The representation, therefore, must have arisen from the adventure of this night. In proof of this, the action is brought for the contents of this letter—still it is for you to say, whether the Defendant has said more, from motives of malice, in that letter, than the Plaintiff deserved. Or it might be, that Mrs. Pilfold exaggerated the circumstances, in her account to her husband, and the illness of his wife may have been the cause for his over-stated account in that letter—*and which exaggeration is certainly unjust.* How far these circumstances may have operated, in all this business, you will take into consideration, and give them such a degree of attention, as in your judgment they may deserve. With respect to the evidence, I will not go into it at any length, because you have been good enough to say, that it is not necessary. The evidence is, in the highest degree, contradictory; and it is for you to say to which set of witnesses you will give the greatest credit. If you believe that this man was in a state of drunkenness at the time they charge him, you have it, that he undoubtedly sat by the side of Carder, driving part of the way, which he could not have done if he had been so,—but he might have been in a state of drunkenness which rendered him offensive to the lady, and that was an objectionable act on the part of the guard who permitted him to enter into that state; for in such a state he may have committed outrages which he would not have committed if he had been sober. Under all these circumstances, you will have to consider your verdict, if for the Plaintiff, with the amount of damages. You will, in the first place, consider, whether the dismissal from the Post Office was in consequence of this letter, or from the report made by Mr. Wedderburn. Of course, you feel that

the Post Office would not have dismissed the Plaintiff merely on this representation. If you think that the report made by Wedderburn had little or nothing to do with it, and that the Post Office would have dismissed the Plaintiff, even if Wedderburn's report had not been made, you will give damages accordingly. Under all these circumstances, I have no doubt you will give your verdict according to the justice of the case.

The jury turned round a short time, and found a verdict for *the Defendant ! ! !*

This verdict may well excite astonishment, but when it is called to mind, that at the commencement of the Judge's charge, the Foreman informed the Court, that "*the Jury were satisfied with the evidence adduced by the plaintiff*," and therefore did not wish to have the evidence read over, but if there were any technicalities of law, they would be happy to hear such explained by his Lordship; it must be evident that a total revolution of their opinion was wrought by the address of the Judge. How far Judge Taunton acted on the suggestion of expounding the law, may be gleaned from his charge itself and my prefatory comments—how far the result exceeded his anticipations is best known to himself; for my part, I am firmly of opinion, that he must have considered a verdict for the plaintiff to have been inevitable, and wished merely to extenuate the damages. The light in which he ought, in justice, to have laid the question before the Jury was, whether they considered the allegations contained in Captain Pilfold's letter to have been made with a view to caution the Post Office against the alleged impropriety of their servant—or whether the intention of the letter was to injure Blake by procuring his dismissal. If the former were their opinion, then, no doubt, the defendant was justifiable, provided the letter contained no mis-statements nor exaggerations; but if they considered that the motive of the letter was to cause injury to the plaintiff, then the action was maintained, and the facts of the case should be taken into consideration only in reference to the amount of damages. Judge Taunton admitted the letter to have been written with "*passion and exaggeration*," and, therefore, such being the fact, without meaning to impugn the right of the Jury to return a general verdict on *the law* as well as on *the fact*, I maintain there could be no motive to return a verdict for the defendant, unless

the impression made by Jndge Taunton's appeal, which, if accompanied with directions for a verdict for the plaintiff, might have been palliated, but not excused, on consideration of the defendant's unfortunate state of mind; but when made at the same time, that the plaintiff's drunkenness was assumed as a fact proved, and his conduct, conjointly with others designated, repeatedly and emphatically as "*insulting and most intolerable*," there can be no mitigation of the gross flagrancy of the charge, and the unpardonable impropriety of the Judge; especially when he should have been more than usually careful to avoid the slightest shade of partiality, which might naturally be attributed to his interview with the defendant's witnesses (Captain Pilfold's daughters and their friend), immediately before he addressed the Jury. It may be asked, why the plaintiff did not move for a new trial? The answer is simply—*Blake was a poor man!* totally unable to pay the costs already incurred, and therefore necessarily became the victim of the melancholy truth:—

"That Judges, still, the venal statutes draw,
Law grinds the poor, and rich men rule the law."

DUKE OF RICHMOND.

Having thus disposed of the leading circumstances connected with this diabolical piece of injustice, it only remains for me now to make a few observations on the conduct of one, whose general character is such, that I feel considerable pain in performance of that duty which obliges me to expose, in his person, the corruptions which office too frequently engenders.

Subsequently to Blake's dismissal, the Duke of Richmond succeeded the Duke of Manchester as Post-

master-General, and hoping that, through the former, an investigation of this case might be obtained, I called upon his Grace for that purpose, when he most courteously promised to look over the documents, and expressed his willingness to hear every explanation that could be offered on the subject. Confiding in this promise, and after waiting a reasonable time, I again called, and found, to my very great surprise, that nothing had been done, that there was no chance of redress being obtained, his Grace referring me, at the same time, to Sir F. Freeling, and saying, that nothing could be done but through him. Finding further solicitation to be useless, the following letter was addressed by the Plaintiff's Solicitor to his Grace:—

BLAKE *v.* PILFOLD.

My Lord Duke. 8th February, 1832.

I beg most respectfully to inform your Grace that this cause will come on for trial at the ensuing Exeter Assizes, and as it will be necessary that all letters and documents connected and relative therewith should be produced to the Court and Jury, it becomes my duty to subpœna some gentleman of the Post Office for the purpose of producing same; anxious, however, not to inconvenience nor give any unnecessary trouble in performing my duty in this respect, I have taken the liberty to suggest, that since it may be more convenient for one individual rather than another to go, I shall be most happy to subpœna any gentleman your Grace will be pleaeed to appoint in the event of your Grace doing me the honour to name any one for that purpose. Humbly requesting the favour of an early reply, I have the honour to remain, &c. &c.

This letter, as it is evident, having been written solely with the view of causing the least possible inconvenience to the Post Office, I felt not a little surprise at its being deemed unworthy the honour of a reply; and accordingly found it necessary to serve the Postmaster-General himself, as well as others, with a *Spa duces*

tecum, on which occasion his Grace, far from evincing any readiness to forward the ends of justice, became most indignant, saying—" I cannot think of going ; I shall not go without receiving fifty guineas !" How far such conduct was consistent with *hereditary* dignity I am incompetent to give an opinion, but if a less exalted personage were to attempt to bargain and extort, as it were, a bribe for assisting to afford a poor man justice, I should not hesitate at once to pronounce it a disgraceful outrage on the dignity of human nature.

In reply to all applications on this subject, the Duke of Richmond answered, that Mrs. Pilfold's statement must have been correct " *owing to her station in life!*" Admirable doctrine ! If rank be the peculiar refuge of truth, it is to be feared that this virtue would soon be left without a shelter.

I have frequently, pending this action, and since the trial, solicited and implored his Grace to direct an investigation into the conduct of the unfortunate Blake, so that even if he were not reinstated, his character might be clear from the unjust and foul imputations that had been cast upon it ; but my applications were neglected, and as a direct refusal might appear too gross an injustice, it was evaded by referring me to the Duke of Manchester's decision, or directing me to apply to the Secretary or Solicitor of the Post Office. This I felt to be equivalent to a flat denial of justice, as I knew by experience—

" You might as well
Forbid the sea for to obey the Moon,
As, or by pity move, or sympathy shake
The fabric of their tyranny."

It is true, the situation of guard being held during pleasure, the Post Office, in dismissing their servant, were not necessarily obliged to give any reason for so

doing, more than what a sense of common justice might have induced them to do; but when the cause of dismissal was specified, and the man's character so far impugned as to prevent him being received in other employment—what language is sufficiently strong to denounce the depravity that could unfeelingly devote a fellow creature to ruin, maligned in character and unheard in justification? The philosophical poet doth notably describe the damnable and damned proceedings of the Judge of Hell—

> "Gnossius hœc Rhadamanthus habet durissima regna
> Castigatque, auditque dolos, *subigitque fateri.*"

First he punisheth, and *then* he heareth, and lastly compelleth to confess, and makes and mars laws at his pleasure, like as the Centurion in the Holy History did to St. Paul, for the text saith—"Centurio apprehendi Paulem jussit et se Catenis eligari, et *tunc interrogabit* quis fuisset et quid fecisset." But good Judges and Justices abhor these courses. (Coke 2, Inst. 53.)

The system of Rhadamanthus, and severity of the Centurion, are both eclipsed by the Post Office mode of administering justice, for the victims of the latter will not be heard, either before or after punishment. Such are the enormities of the present case; and as I have briefly detailed the conduct of the man, I should wish to excite my countrymen to inquire into the duties of necessity of the office of Postmaster-General. That the duties are certainly not of the most laborious character may be inferred from the fact of *four visits annually* being considered sufficient for their discharge, for which the *moderate* sum of £4000 is paid from the public purse, thus rating the honour of a visit at £1000 which, in my humble judgment, is rather "*too much for the whistle.*" How long the present system will be

allowed to continue must depend on the exertion of the people themselves, for the history of ancient and modern times clearly demonstrates, that reformations, in political and social economy, originate, for the most part, in the spirited activity of the governed, and rarely, if ever, in the *watchful and generous* protection of the Government.

Joseph Knight, Printer, Gibson Street, Lambeth.