

**An account of the trial between Jonathan Stancliffe, plaintiff, and Thomas Chorley and George Bulmer, defendants, for neglect and inattention as to the dislocation of an arm : tried on Saturday, the 31st July, 1830, at York, before Sir N.C. Tindal, knight, and a special jury.**

### **Contributors**

Royal College of Surgeons of England

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AN ACCOUNT  
OF THE  
TRIAL

BETWEEN

JONATHAN STANCLIFFE, PLAINTIFF

AND

THOMAS CHORLEY AND GEORGE BULMER

DEFENDANTS,

FOR NEGLECT AND INATTENTION

AS TO THE

DISLOCATION OF AN ARM;

Tried on SATURDAY, the 31st JULY, 1830

AT YORK,

BEFORE SIR N. C. TINDAL, KNIGHT

AND A SPECIAL JURY.

LEEDS:

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1830.

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# TRIAL.

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STANCLIFFE *v.* CHORLEY & BULMER,

*Tried on Saturday, the 31st July, 1830,*

**AT YORK,**

BEFORE SIR N. C. TINDAL, KNIGHT,

*AND THE FOLLOWING SPECIAL JURY:—*

JOHN SINGLETON, of Given-Dale, Esq. *Foreman.*

GILES SHAW, Upper Mill, Quick, Merchant.

THOMAS BROOK, Honley, Merchant.

EDWARD LAUGHTON, North-Gate, Esq.

ROBERT WRIGLEY, Netherton, Merchant.

FOSLER LECHMERE COORE, Santon, Esq.

Hon. PHILIP STOURTON, Haslewood.

WILLIAM CARR, Wath, Esq.

BENJAMIN AGAR, Wraithhill, Esq.

WALTER BRAMBLES, Burlington, Merchant.

GEORGE COTTOM, Melburne, Merchant.

Mr. ROBERT HODSON, *Talesman.*

Council for the Plaintiff, Messrs. POLLOCK, ALDERSON, and BAINES; Attorney, Mr. JOHN BLACKBURN, Leeds.

Council for the Defendants, Messrs. BROUGHAM, PATTESON, and HILL; Attornies, Messrs. SMITH & HUTCHINSON.



Mr. Baines opened the pleadings.

May it please your Lordship, Gentlemen of the Jury,—

In this Action, Jonathan Stancliffe is the Plaintiff, and Thomas Chorley and George Bulmer are the Defendants. The first count in the declaration states, that the Defendants exercise the profession of Surgeons at Leeds; and that the Plaintiff employed them to reduce a dislocation of his right shoulder; and that the Defendants treated it so negligently, unskilfully, and improperly, that they failed to reduce it; in consequence of which, the Plaintiff has been deprived the use and benefit of his right arm, and has been put to serious inconvenience; the second count is nearly similar to the first. The Defendants have pleaded the general issue, whereupon issue is joined.

Mr. Pollock rose and said, May it please your Lordship, Gentlemen of the Jury,—I have to state to you more particularly in detail the pleadings which my learned friend, Mr. Baines, has just opened; the action charges, that the Defendants are responsible for a very serious injury, from the effects of which, it is probable, the Plaintiff never will recover more than he has now up to the present hour; and in all probability, he will remain, to a certain extent, a cripple for the remainder of his life. He was a wharfinger at Leeds, a married man, and about the age of thirty years, when the accident happened, by which, his means are diminished, his prospects



impaired, and he looks to you for reparation for that injury which he charges the Defendants as responsible.

The accident having happened ; in the first instance, he sent for the attendance of one of the Defendants, but was visited by a very young pupil, whose negligence, ignorance, or inattention at the moment, or whose general want of skill, has produced that mischief which has impaired the Plaintiff's means for the rest of his life. Gentlemen, I need not state to you more generally, that medical men, in the situation of Mr. Chorley and Mr. Bulmer, are answerable for any consequences which may result from their want of skill, or want of attention to their patients ; and if they fail in any of these matters, they are bound to remunerate and compensate those parties who suffer from their want of skill and attention ; and as there is no doubt that this case is entirely to be attributed to some strange oversight. It is not necessary for me, nor do I stand here for the purpose of arraigning the characters of Mr. Chorley or Mr. Bulmer ;—it is sufficient for me to say, that they are responsible for the want of skill, or want of attention of the persons they employ. It is the misfortune, perhaps, of both the Defendants, and to the Plaintiff in particular ; but as the Defendants are responsible, the Plaintiff is not to sit down contented without remuneration for an injury, the extent of which you will hear from the witnesses, and I hope you will be satisfied that he properly enough brings



this complaint before you. I shall not attempt any imputation upon the Defendants; but when I state to you shortly the circumstances, you will, I think, see quite enough to understand in what way it is likely for this to have happened, casting upon Mr. Chorley and Mr. Bulmer all the responsibility for the consequences, which have occurred without any imputation upon their skill and general practice; but after you have heard the witnesses, I think you cannot doubt but that there has been a very great oversight, and one that ought not to have occurred. The Plaintiff, on the 16th March in this year; I think on a Tuesday evening, was attacked with a fit in his counting-house; he recovered from that attack, and was taken home, under the care of a person of the name of Tunnacliffe, who will be called as a witness before you. In consequence of that attack the Plaintiff had fallen down, and when he got home, the effects of the fit had gone by, but he suffered exceedingly from the right shoulder. In consequence of his sufferings being very severe, he sent for medical assistance, and the Defendants, who undeniably rank amongst the most eminent in practice in the very large town of Leeds, were, naturally enough, selected for the occasion. Unfortunately for the Defendants, and still more unfortunately for the Plaintiff, neither Mr. Chorley nor Mr. Bulmer were at home, but a young man, who is an assistant there, of the name of Wade, who is about 24 years of age, came instead of Mr. Chorley or Mr. Bulmer. It



is no matter of reproach to Mr. Chorley or Mr. Bulmer, who themselves have acquired so much fame, and have in their proper persons been so successful, as to create a demand upon their skill and talent, that personally they are themselves well able to answer. It can be no matter of reproach to them that they are obliged to have recourse to others for assistance: quite the contrary; nor is it a matter of reproach that they are under the necessity of selecting persons of less experience than themselves.—Nor is it to be wondered at, that those who are selected are young men, and though they may be well educated, cannot be experienced in the practice of medicine. I don't purpose to state much to you upon the subject of the accident, but I may state the circumstances generally. I am told it is one of the most ordinary dislocations that can occur, and it is of all others the most easy to be detected; and though the particular form of this dislocation is somewhat rare, yet it is, if anything, the more easily detected than any other. I am told it could hardly escape the attention of any man; but, that a medical man ought not to have overlooked it. Mr. Chorley having been sent for, Mr. Wade attended, and complaints were made as to the state of the Plaintiff's shoulder; he proposed to bleed the Plaintiff in the right arm, but on taking hold of the arm for that purpose, the Plaintiff felt so much pain that he insisted upon it, that he should not bleed that arm; Mr. Wade did desist from that arm, and bled him in the left



arm. The state of the right shoulder was then distinctly pointed out to Mr. Wade; the pain was stated to him to be very great, and the inconvenience he laboured under. Mr. Wade said, that nothing was the matter, and that the pain he complained of was entirely to be attributed to the fit, which he had recently had. Mr. Wade went away that night, and two friends of the Plaintiff's sat up with him. In the course of the night his sufferings were so great that Mr. Chorley was again sent for, but was not at home, and Mr. Wade sent some camomiles and poppy heads to foment the shoulder with. That, however, afforded no relief, and in the morning Mr. Bulmer came. I understand that Mr. Bulmer is a much younger man than Mr. Chorley, and consequently has not had so much experience. The Plaintiff's shoulder was pointed out to Mr. Bulmer, and he said nothing was the matter with it.

I take it for granted, that Wade said to Mr. Bulmer, I found him *so and so*, and I examined the shoulder, and found no dislocation; and, therefore, Mr. Bulmer went with a preconceived mind that there was no dislocation. In the course of that day Mr. Chorley's attention was directed to it, and undoubtedly the swelling having taken place, and Mr. Chorley acting upon the previous opinion of Mr. Bulmer and Wade, seems to have come to the same conclusion, that nothing was the matter, and attributed the pain, the Plaintiff had in his shoulder, to some affection of the spine. It sometimes happens, the very



facility of detecting a complaint of this nature, if it be not detected in the first instance, will be the means to prevent it afterwards ; for it may happen, that reasoning upon the subject as far as Mr. Bulmer or Mr. Chorley attended to it, that they would reason thus ;—a dislocation of the shoulder is an accident by which no man can by possibility be mistaken in ; Mr. Wade was here last night, and as he did not discover it, it could not exist.

I need not take up your time by stating the progress. You know perfectly well, that persons in the extensive business of Mr. Chorley and Mr. Bulmer, having made up their minds how it was to be treated, so it went on ; the patient was fomented and cupped, and severe lotions applied ; and, at the expiration of 4, 5, or 6 weeks, the complaint became rather more visible ; they went on treating it according to their view of the case, until a circumstance occurred which drew the attention of other persons to it ;—the Plaintiff is a member of an Association, which provides, in case of accident, relief for its members, and the Plaintiff applied to that club for assistance. It is necessary, for that purpose, to obtain the certificate of a medical man of the incapacity of the person ; a certificate was obtained from Mr. Chorley, which was countersigned by the Surgeon of the Association ; and a certificate being obtained, is not to go on for any length of time, but the Society requires a fresh certificate every fortnight ; a second certificate was obtained, and again coun-



tersigned by the Surgeon of the Association ; and in three days afterwards, it was thought desirable by the Club that Mr. Metcalf, their Surgeon, should examine the Plaintiff ; and the moment that Mr. Metcalf saw and examined the shoulder, he perceived, at once, it was a dislocation of some weeks standing, and that nobody could entertain a doubt upon it ; he immediately called in, and consulted with several Surgeons, and he sent the Plaintiff to inform Mr. Chorley of the result ;—Mr. Chorley's answer was, if Mr. Metcalf thinks there is a dislocation he may put it in, but he was quite sure there was no such thing ; upon which, Mr. Metcalf submitted the case to several professional gentlemen, who, upon examining the Plaintiff, had not the slightest doubt that the shoulder was then dislocated, and that any man who has eyes might see it. They thought it right to endeavour to reduce it, and succeeded in the attempt, but the cavity having got filled up by a process of nature, when the bone got to its place it receded and slipped back again ; and the Plaintiff remains, and probably will remain for the rest of his life, crippled in that limb, and incapable of using it, except as an under-arm. That is an outline of the case, and on certain parts of it, I believe there will be no sort of doubt—that the Plaintiff, at this moment, is suffering in consequence of a dislocation, unnoticed, and which was left to the mere process of nature for some weeks ; that the accident that occurred to the Plaintiff was capable of immedi-



ate and easy relief, if it had been early discovered; that recently after such an accident it ought to have been detected, and could not escape the eye of any man who gave to it just attention.

Then what will be the case on the part of the Defendants? I understand they have brought here many witnesses, but what they are to prove I am at a loss to know, for, undoubtedly, it will be made out that Mr. Wade saw the Plaintiff within a very short time of the accident occurring—within a period that he would not have failed to discover it, if he had the skill, which, as assistant to Mr. Chorley, he ought to have had. Will Mr. Chorley contend that he is not responsible? My Lord, I believe will lay down the law that he is.

Gentlemen, I believe this case will resolve itself into two questions ;—the first is, was this a case which, with ordinary skill, could have been overlooked by Wade, who attended in the first instance, and might have detected it? If it was, the Plaintiff is entitled to your verdict. And then you will have the question, what Damages the Plaintiff is entitled to, who is a person comparatively in a humble situation in life,—who is a married man, and has four children; and whose wife and children look up to him for support. The Defendants are in affluent circumstances, and you will say what is a fair and reasonable compensation to the Plaintiff, whose prospects are interrupted, and who has to pass the remainder of his life in a state of uselessness, and must remain crippled



in his endeavours to maintain his family. He dont ask for vindictive damages; the question is how is he to be compensated for the injury he has sustained? I apprehend I shall have an opportunity of addressing a few more observations to you, if I have, I trust, I shall not make any improper use of a reply; if I have not—the case is in your hands, and I trust that you will award such damages to the Plaintiff as the circumstances of his case require.

*George Southern, examined by Mr. Alderson,—*said, I am a block-maker, and live in Vollans'-Row, Hunslet-Lane, in Leeds, next door to the Plaintiff, who, I believe, is an agent; he has a wife and four children, the eldest is about twelve years old. I remember Mr. Stancliffe coming home about seven o'clock in the evening, having had a fit; it was on the 16th March. I was called up by Mr. Stancliffe's wife that night, about half-past ten o'clock, and I went to see him; he complained of a pain in his right shoulder, and requested me to go and fetch Mr Chorley; I went to Mr. Chorley's house, but did not find him at home. I saw a man of the name of Wade, who is one of Mr. Chorley's assistants. I told Mr. Wade that Mr. Chorley was to come down to Mr. Stancliffe's, that he had had a fit at the counting-house, and had fallen, and that he had great pain in his right shoulder. Mr. Wade said, that Mr. Chorley was not in, but that he would go himself, and he went with me to Stancliffe's house; when we got there, Mr. Wade took hold of Mr.



Stancliffe's hand, but he could not bear him to lift it up. (To a question by the Judge, witness said, Stancliffe was in bed and undressed when Mr. Wade attempted to lift it up.) Mr. Stancliffe complained of his shoulder, and could not bear it to be lifted up. The bed was next to the wall, on Mr. Stancliffe's left side; it was his right shoulder that he complained of. Mr. Stancliffe could not bear Mr. Wade to bleed him in the right arm; and, after a deal of persuasion, Mr. Wade got upon the bed and bled him on the left arm. I told Mr. Wade that he had better look at his shoulder, and I opened his shirt neck, and tore his flannel waistcoat down, and made his shoulder bare. Mr. Wade then felt at his shoulder, and said nothing was the matter with it; that the pain was merely from the fit. Mr. Wade was, from ten minutes to a quarter of an hour, examining his shoulder; he requested some person might go back with him to bring medicines. I saw the medicines when they came back; George Hill fetched them, and they were a small bottle and a bolus. Mr. Stancliffe took them as they were directed. Mr. Stancliffe sat up in bed when he was bled, and I held him up with my left arm. It was when he was sitting up in bed that Mr. Wade lifted up his arm, that he complained of pain in the shoulder. The pain continued all night, and got worse. When Mr. Wade examined the shoulder at first, it did not appear to be swelled; but, about four o'clock in the morning it began to swell; upon that, I went a second time



to Mr. Chorley's house, and saw Mr. Wade again; he looked out of a chamber window, and I told him he must come down, or send some relief for Mr. Stancliffe's shoulder. He said he would come down to me; when he came down, he said, he would go and acquaint Mr. Bulmer, and he left me in a room below; when he came back, he gave me some poppy heads and camomiles, and ordered a fomentation for the shoulder. I and George Hill fomented it till the stuff was done, but the pain continued; at eight o'clock in the morning, Mr. Bulmer and Mr. Wade came together, and I left them in Mr. Stancliffe's house.

In about a fortnight afterwards, I saw Mr. Stancliffe stripped, and I observed upon his right shoulder, that there appeared to be a bone or lump to stick out; it was on the fore part of the shoulder. Mr. Stancliffe was never able to lift his arm after that, and has not been able to attend to his business since.

*Cross-examined by Mr. Brougham.*—Mr. Chorley's house is better than half a mile from Stancliffe's. I got there about eleven o'clock. Mr. Wade came to the window up stairs. I did not see Mr. Chorley or Mr. Bulmer. I told Mr. Wade there was a man who had had a fit at his counting-house, that he had hurt his arm, and had great pain in his shoulder. I mean to swear that I told him, I came for him to attend Mr. Stancliffe for his arm. I did not see Mr. Stancliffe have a fit. I don't know that he had a second fit. I never heard Mr. Stancliffe's wife



say, that he had a second fit. I mean to swear, that I did not tell Mr. Wade I was sent to him only for a fit. Mr. Wade went with me instantly, and we went to Mr. Stancliffe's as quick as we could, the first thing Mr. Wade did, was to lift up his arm. I saw him feel Mr. Stancliffe's pulse. I did not hear his wife say that he had been in a fit, and had been very unmanageable. I never heard her say that the fit had left him, and that he was now sensible. I heard that he had had an epileptic fit last year. I can't swear that Mr. Chorley attended him, but I suppose that he did. I never saw Mr. Chorley at Mr. Stancliffe's house. The neighbours told me that Mr. Chorley attended him. I never heard Mr. Stancliffe's wife say anything but about his arm. Mr. Stancliffe did not complain of pain between the elbow and wrist, but always from the shoulder. No complaint was made of pain in the head, either by Mr. Stancliffe or his wife. I did not hear him complain of pain in his left arm, nor numbness in his right. I know Dr. Metcalf personally. Mr. Stancliffe's attorney examined me only once, and he read over to me what I had said. I will swear that I did not see the attorney more than twice, to have any conversation with him. I saw him to-day in York, but he said nothing to me, only I was to be here in readiness.

*Re-examined by Mr. Pollock.*—Mr. Stancliffe's wife came to call upon me, she requested me to go down to Mr. Chorley's, because Mr. Stancliffe had so much pain in his arm. Before I went to Mr.



Chorley's I went to Mr. Stancliffe's house, and found Mr. Stancliffe in bed, he complained of his shoulder, and of nothing else. I staid there ten minutes or a quarter of an hour. I had no cause for going to Mr. Chorley's, except for the pain in his shoulder. I am perfectly sure that this night I laid his shirt neck open, and tore his flannel waistcoat down, that Mr. Wade might see the shoulder. Mr. Stancliffe's wife was present at the time. About half-past twelve o'clock I called up George Hill, who lives near Mr. Stancliffe, and he and myself sat up with Stancliffe all night. George Hill was not there in Mr. Wade's presence.

*John Tunnacliffe, examined by Mr. Baines.*— I am a book-keeper to Mr. Pearson, of Leeds, a carrier. On Tuesday, the 16th March last, I was assisting Mr. Stancliffe, who is a wharfinger, in getting some tallow on board a vessel, going to Bradford; and, upon going to the counting-house, about seven o'clock in the evening, I found Mr. Stancliffe upon the floor; I assisted him up, went home with him to his house, and remained with him there about an hour; when I left him, he had perfectly recovered from the fit; as I was taking him home he several times complained of great pain in his shoulder. I next saw him on the Sunday following, at his own house; a person of the name of Broomhead was there when I went in. Mr. Chorley came about half-past ten on the same morning, and I heard what passed between him and Mr. Stancliffe. Mr. Stancliffe



was down stairs, sitting in the house. Mr. Chorley asked him how he was, Mr. Stancliffe replied, he was very well of himself, but that he had a great deal of pain in his shoulder; at Mr. Chorley's request, Mr. Stancliffe was stripped, and Mr. Chorley took hold of Mr. Stancliffe's right arm, with his right hand, and placed his left hand at the back of his right shoulder; he desired Stancliffe to hold up his arms, and to hold them forwards. Mr. Stancliffe lifted the left arm up, but he could not move his right; after that, Mr. Chorley desired Stancliffe to turn round, with his back towards him, and after he had turned him round, Mr. Chorley began to examine him from the bottom part of the back up to the shoulder, by pressing with his fingers. Mr. Chorley kept asking him if it gave him pain, as he pressed upon his back, and Mr. Stancliffe said not any. Mr. Chorley pressed upon the middle of the back, but when he got to the shoulder, Mr. Stancliffe shrank, and said it hurt him. Mr. Chorley then ordered Stancliffe to put his hands upon a chair bottom; he put his left hand on, but could not get his right; he attempted to do it, but could not. Mr. Stancliffe was standing. Broomhead asked Mr. Chorley if he thought Stancliffe's shoulder was right. Mr. Chorley said, there was nothing amiss with the shoulder, the pain proceeded from the *spine in the back*. Mr. Chorley ordered him to get some camomile and poppy heads, and foment it. I did not observe any swelling on the shoulder whilst I was there, but



it was very black. Mr. Stancliffe has not had the use of his arm since. .

*Mrs. Mary Clay, examined by Mr. Pollock.*— I live near to the Plaintiff, at Leeds, and am first cousin to the Plaintiff's wife. I remember Mr. Stancliffe coming home unwell, on Tuesday evening, the 16th March. I went into his house about ten o'clock the same evening; George Southern was there when I went in; he was sent to Mr. Chorley's, and I went away before he returned. I was there about half an hour, and during that time, Mr. Stancliffe complained very much of a pain in his shoulder, and could not bear any thing to touch it; he did not attempt to move it, as he could not bear it moving. I do not recollect that he complained of any thing but his shoulder.

I was there again on the following morning; Mr. Bulmer was just leaving the house when I went in; he had written a prescription, which was sent to the surgery. In about half an hour one of Mr. Chorley's young men came, and brought the cupping instruments, and a bottle of lotion. I assisted the young man in the cupping Mr. Stancliffe. Four or five cups were put upon Mr. Stancliffe's back, but only three were lanced. During the time they were bleeding, Mr. Chorley came in and took two of the cups off. After they had done bleeding, Mr. Stancliffe complained again of his shoulder; at that time the shoulder was much swelled, and Mr. Chorley saw it. I told Mr. Chorley that he had



fallen from a beaufet in the counting-house, in a fit, and that I thought he had hurt his shoulder; upon that Mr. Chorley examined it; the shoulder was a good deal swelled. Mr. Chorley pressed with his thumb from the back of his neck to opposite the shoulder blade. Mr. Chorley, each time he pressed, asked him if it hurt him; and when he came opposite to the shoulder blade, Mr. Stancliffe said it hurt him very much. Mr. Chorley said, the pain in his shoulder proceeded from his back, and that the shoulder did not ail any thing. Mr. Chorley said, it must be fomented with camomile and poppy heads; there was a bottle of lotion in the window, and Mr. Chorley said some of that was to be applied down the back. Whilst I was there the following morning, Mr. Chorley came and asked Mr. Stancliffe how he did; Mr. Stancliffe replied, he was rather better of himself, but that he had a deal of pain in his shoulder. Mr. Chorley told him to lift his arm up, and took hold of his hand to lift it up, but Mr. Stancliffe could not bear it. Mr. Chorley then said, white bread poultices must be applied from the shoulder down to the elbow. The arm was very much discoloured from the top of the shoulder down to the elbow. I told Mr. Chorley that I thought he must have hurt his shoulder, and Mr. Chorley asked Mr. Stancliffe how he fell. Mr. Stancliffe said he could not recollect, as he was insensible at the time. I saw Mr. Chorley and Mr. Bulmer there at



several other times. Mr. Stancliffe is not able to dress or undress himself.

*Cross-examined by Mr. Brougham.*—I told Mr. Chorley that he had a fit. I told Mr. Bulmer also that he had a fit; but I dont know whether it was on Wednesday or Thursday. I dont recollect that I ever heard Mr. Stancliffe complain of pain in the head, or of numbness about his arms. He never did complain of any numbness. I am own cousin to Mrs. Stancliffe; I live near to the Plaintiff's house, and am very intimate with Mrs. Stancliffe. I am married to Mr. Clay, he is a bailiff of the Bradford court. He has been a bailiff four or five years; before that he was a book-keeper at the Bull and Mouth coach office, in Leeds.

*Squire Broomhead, examined by Mr. Alderson.*—I am a sail-maker, and live near to Mr. Stancliffe, in Hunslet-Lane, Leeds. I have known him about twelve months. I saw him on the Wednesday morning after the fit. George Southern was with him. I saw him again the same morning when Mr. Bulmer was with him. His shoulder was swelled, and Mr. Bulmer marked him upon the back with pen and ink, where he was to be cupped. That was about eight o'clock in the morning. I remember being there again on the Friday when Mr. Bulmer called. Mr. Stancliffe complained of great pain in his right arm and shoulder. Mr. Bulmer looked at his shoulder; it was then swelled, and he ordered it to be fomented with camomile and



poppy heads. I was at Mr. Stancliffe's house on the Sunday after, from ten to twelve o'clock, and whilst I was there Mr. Chorley came; he asked Mr. Stancliffe how he was, and expressed a surprise at his being out of bed; and Mr. Stancliffe said, I am as well as I ever was in my life, barring pain in my shoulder. He could not pull his own coat and waistcoat off, so I pulled them off and bared his shoulder. Mr. Chorley said he had better have all off, and Mrs. Stancliffe took off his shirt and flannel waistcoat; Mr. Chorley then examined him with his face towards him, and after that he had his back towards him. He pressed with his hand upon his back, and when he came opposite the shoulder bone, Stancliffe said it hurt him. I set a chair, and Mr. Chorley wanted Mr. Stancliffe to put his hands upon the chair bottom; he put his left hand upon it, but could not put his right hand in attempting to do so. I asked Mr. Chorley if he thought his shoulder was right; and Mr. Chorley said, the pain proceeded from the spine of the back, and without great care, he was afraid he would have an abscess upon his shoulder, which would be of serious consequence to him; the swelling had then gone down, but the back part of the arm was quite black. I could see that his shoulder was not right. I was stripped for the purpose of comparing my shoulders with his; and the bone of his right shoulder stood more out than mine, and more also than that of his left shoulder. I think the next time that I saw Mr. Chorley there,



was on the following Sunday. Mr. Chorley prescribed the same as he had done before; fomentations of camomile and poppy heads. Mr. Stancliffe has never been able to do any thing since, and I believe he never will. He cannot lift his hand to his head.

*John Nutter, examined by Mr. Baines.*—I was formerly clerk to Mr. Stancliffe; I left him about twelve weeks ago, and was his clerk about nine months. I was with him at the time this accident happened; in March, during the time I was with him, he was not able to attend to the business; when the accident happened he was making from £150. to £200. a year; but, in consequence of his not being able to attend to his business, there was a falling off probably of one-third of that sum.

*Cross-examined by Mr. Brougham.*—Mr. Stancliffe was attended by Mr. Chorley and Mr. Bulmer.

*(By the Judge).*—He is able to use pen and ink, but in a very indifferent way.

*Mr. Charles Turner Thackrah, examined by Mr. Pollock.*—I am a member of the Royal College of Surgeons, in London; I have been so fourteen years. I practice as a Surgeon in Leeds, and am a Lecturer on Anatomy. I remember the Plaintiff coming to me. I believe it was on the 30th April, in the present year. A gentleman, whose name I dont know, was with him; he came to me to ask my opinion whether his shoulder was out of joint or not. He stated



nothing to me at that time as to his being attended by any other person. I was aware, however, from hearsay of some of the circumstances of his case. He was stripped, and I examined him; the shoulder was dislocated backwards. I discovered it as soon as the chest was made bare, and the hands placed on the shoulders. It was evident, indeed, to the eye that there was some dislocation. From barely looking at him, I should have suspected such an accident. On examining him I had no doubt of the fact. I cannot form a satisfactory opinion whether it was recent or of long standing, except from the history of the case. I could not speak positively. I think it might have happened about a month before. The Plaintiff will have rather more use of his arm than he has now, but never the perfect use of it; that is impossible, unless it were reduced. If the bone be not replaced after an accident of this sort, the socket is gradually filled up, and a new cavity produced by the lodgment of the bone, and these changes increase the difficulty of reduction, and render it almost impossible. The general opinion is, that attempts at reduction, after a certain time, will probably do more harm than good; some say after two, and others three months. An eminent French Surgeon succeeded at the end of three months; but Surgeons of this country would not risk an attempt at reduction after two months. The filling up of the cavity commences, I presume, very soon after the accident; probably in a few days. A socket thus



filled, would allow the head of the bone to recede after reduction, unless some artificial support were applied. The dislocation was such, that if examined within a few hours after the accident, by a Surgeon of ordinary skill, whose attention were fully called to the subject, it could not be overlooked. Removing the shirt and the flannel waistcoat would give a Surgeon an opportunity of detecting it. Swelling, very generally, comes on after a dislocation. I should say, as a general observation, a few hours after. This swelling would increase greatly the difficulty of ascertaining the exact nature of the injury. After some days the swelling would subside, particularly if it were fomented ; and after that, if a careful examination took place, I think, a Surgeon of ordinary skill and attention, ought to discover the injury ; but all are liable to oversights. If a Surgeon were called in, shortly after the accident, and the patient complained of pain in the shoulder, and inability to raise the arm, he ought to suspect a dislocation ; but men are not always prompt, nor is the attention always called to a local injury. The complaint of pain in the shoulder, and the difficulty in raising the arm, would make me suspect there was dislocation ; it would lead me to examine, and upon examination, a person of anatomical skill could scarcely fail to detect the dislocation.

*Cross-examined by Mr. Brougham.*—If a Surgeon's attention were strongly called to the shoulder, and he had a competent knowledge of



Anatomy. I think he could not fail to observe the dislocation. I should think that he had not a competent knowledge of Anatomy, or that he had not attended to that particular part, if he did not discover it. I don't know how his attention could be more strongly called to it, than if he had been told of great pain in the shoulder, and the patient being unable to raise his arm. If a Surgeon did not discover it, after it being so strongly called to his attention, I should think him an unskilful Surgeon; though it is an error that might happen to the most skilful, if his attention were not called to it. It was a very unusual dislocation. I have practiced about 14 years, and I never saw an instance of the same kind before. The swelling had entirely subsided when I saw it. Within the first few hours there is no swelling, and the dislocation would be the more easily discovered. The period of the swelling commencing may depend upon the nature and severity of the injury. In one case the swelling may take place in three hours, and in another in six hours. I think in three hours there would not be such extent of swelling as to prevent the discovery of the dislocation. I know Mr. Hey, he is one of the most eminent Surgeons in Leeds.

*Re-examined by Mr. Pollock.*—Mr. Hey and Mr. Chorley are Surgeons in the same institution. The very appearance of the shoulder indicated dislocation. If the Surgeon's hands had been laid, one on each of the patient's shoulders, it would have been discovered directly. The dislo-



cation of the shoulder bone backwards is very rare ; but with attention, it is as easily discovered as any other dislocation. Passing the hand from vertebræ to vertebræ was not the way to discover a dislocation in the shoulder. The representation of a pupil might put a Surgeon upon a wrong tract. When Mr. Stancliffe called upon me I wrote to Mr. Chorley on the nature of it. [Mr. Thackrah stated to the Court, that before he gave any opinion to the Plaintiff, he wrote a note to Mr. Chorley, wishing to confer with him on the case.]

In the course of Mr. Thackrah's examination, he stated to the Court, that he had brought a dried preparation and a fresh shoulder joint to illustrate the nature of the case, if either party required them. His Lordship replied that they were not necessary.

*John Doughty Hepworth, examined by Mr. Alderson.*—I am a graduate of Queen's College, Cambridge, and a Surgeon at Leeds. I was formerly a pupil at the York County Hospital. I attended there five years ; afterwards I went to London, and studied at the hospitals of St. Guy's and St. Thomas', during a winter and a summer. On the 28th of April last, I saw the Plaintiff at the house of Mr. Metcalf, a Surgeon, at Leeds. I was not previously acquainted with the merits of the case. I saw the Plaintiff stripped. The first object which attracted my attention was a want of symmetry in his figure ; his right shoulder was considerably depressed. On examination



I felt a hard prominence under the spine of the right scapula. I turned the patient round to examine him in front, and I saw a manifest depression under the acromion process, which is a marked symptom of dislocation of the shoulder, indicating the absence of the head of the humerus from its proper situation. I took hold of the elbow with my right hand, and placed the palm of my left over the prominence on the scapula, and rotating the elbow, I felt the head of the humerus distinctly to correspond with the movement; I was then convinced that the shoulder was dislocated backwards. It is an accident of very rare occurrence; but though uncommon, it is a species of dislocation easy to detect.

If I had been called in, about two or three hours after such an accident, and the patient had complained of great pain in his shoulder, this symptom would have led me to examine the joint minutely.

If I had been informed that the patient had been seized with an epileptic fit, and he was lying in bed at the time I saw him, I might have overlooked the dislocation; but if I had examined the shoulder minutely, I ought to have discovered it. A patient complaining of pain in his shoulder, and inability to lift up his arm, would, unquestionably, have called my attention to it.

*By Mr. Brougham.*—Under the circumstances, the same thing might happen to any one which happened to Mr. Chorley and his pupil.



I have said that this was an ill-natured proceeding against Mr. Chorley.

[Mr. Hepworth stated to the Court, that he recommended the patient to go back to Mr. Chorley, and direct his attention to the dislocation, which he supposed Mr. Chorley had overlooked.]

*Re-examined by Mr. Pollock.*—The time when the swelling may come will depend upon the extent of injury done to the capsular ligaments and muscles generally; I should say from three to six hours. If the shoulder were examined minutely before the swelling had come on, I think the dislocation ought to have been discovered. After the swelling had come on it would be more difficult to detect; but I should still be able to discover it, if the swelling were not to a great extent. The swelling, generally, subsides in a few days after an accident of this kind; perhaps in five or six days with proper treatment. After that time, any Surgeon of ordinary skill, if his attention had been directed to it, ought to have discovered a dislocation if it existed. No Surgeon of ordinary skill could fail to discover it; but if the patient were labouring under another disease, and that disease were uppermost on the Surgeon's mind, it might prevent him from giving due attention to the local injury.

If his attention were pointedly and particularly called to the shoulder, I think a competent Surgeon ought to have discovered it.

I thought, when I saw it, that the accident was of long standing, because, on moving the arm, I



felt considerable crepitus, and the muscles were shrunk.

(*By the Judge*).—Epileptic fits have nothing to do with swelling of the shoulder.

*Thomas Thompson Metcalf, examined by Mr. Pollock.*—I am a Surgeon, at Leeds, and have practised ten years, nearly eleven. I am a member of the Royal College of Surgeons, in London; and, also a licentiate of the Apothecaries' Company. I am Surgeon to a Lodge of Odd Fellows, of which Mr. Stancliffe is a member; it is a rule in that lodge, to have a medical certificate from me, previous to receiving any benefit from the funds. I must see the patient; I first saw Mr. Stancliffe in the beginning of April, he waited upon me with a certificate from Mr. Chorley, and I counter-signed it; I did not examine him upon that occasion as to the nature of his ailment. There is also a rule in that society, that if the patient be attended by any other medical man, it would be necessary that I should see him once a fortnight; and, in consequence of that, I saw Mr. Stancliffe in about a fortnight after, but did not then examine him; the day but one after that he called upon me, at my own house, and I then examined him. It was necessary that he should have a certificate to the lodge, of which he was a member. I had received a certificate from Mr. Chorley, stating that Mr. Stancliffe had a paralytic attack; but, in consequence of his moving the lower part of his arm, I conceived it was not so. I then examined him in the presence of his wife



and two of my young men, and found a dislocation of the shoulder; it was the using the lower part of his arm that caused me to suspect dislocation; there was not, at that time, any swelling, or inflammation, or discolouration, it was much in the same state as it is at present; there were marks of recent cupping upon the back; there was then very little diminution of the muscle of the right arm, there has since been a considerable diminution. I thought it must have been dislocated some time. Mr. Stancliffe did not appear to me to have any spinal affection. The dislocation was backward; the head of the upper part of the bone goes upon the shoulder blade; it is a dislocation of rare occurrence, but I think it much easier to discover when backward, than in any other manner. I had no difficulty in making out the dislocation; I was sure, from the appearance, before I touched it, that there was a dislocation, and my examination satisfied me what sort of dislocation it was. A person, of competent skill seeing that, before the swelling came on, ought to have found it out immediately, if he paid due attention to it. If the patient were sitting in bed, and his shirt and flannel waistcoat were stripped off, it would give a Surgeon the means of examining the shoulder. If, after the swelling had gone down, there had been an attentive examination of the shoulder, it would have been discovered; with competent skill and proper attention, it was impossible for any person to have overlooked it, particularly after his attention had been called to



it. Having made this discovery, I learned from the patient that Mr. Chorley had attended him; I thought proper to consult other medical men; I called upon Mr. Thackrah, and requested him to see the case, as I thought it peculiar, and I also called in Mr. Hepworth, who has just been examined; I saw Mr. Hepworth examine him; Mr. Hepworth saw him in three or four hours after I had seen him. The patient did not appear to me to have the least knowledge that his shoulder was dislocated until I told him so. I requested to see Mr. Stancliffe again, and, at the suggestion of Mr. Hepworth, I referred him to Mr. Chorley. When I learned the time that the accident occurred, I should not have thought it right to attempt a reduction, without the concurrence of other medical men; I had the concurrence of Mr. Thackrah, Mr. Hepworth, Mr. Taylor, and Mr. Corsellis; Mr. Corsellis is not here, he is in a bad state of health, and I think not able to come. In a few days, an attempt was made to reduce the dislocation, we got the bone over the cavity, with a great deal of difficulty, the operation was one of great pain; after some time, there is a difficulty in reducing a dislocation, because the cavity gets filled up; the operation did not succeed; the head of the bone gradually receded from the situation we had got it into, and went back near to the same situation in which I found it; I think it receded back in about a week. In my opinion, the operation can never be performed with success; I think it must always remain as it is at



present; the effect of it is, he cannot have a rotatory motion; he cannot lift his hand to his head, nor tie his neckcloth, nor dress or undress himself. It will be necessary for him to have assistance in a many instances, and is never likely to receive the perfect use of his arm again.

*Cross-examined by Mr. Brougham.*—It was impossible to overlook it, and if a person had seen the patient and had overlooked it, I should call it carelessness. I think that no careful practitioner could avoid seeing it. The Plaintiff was examined by Mr. Corsellis, and I believe by Mr. Hey, at my house. Mr. Hey is an eminent Surgeon, and so is Mr. Chorley. I know that Mr. Hey is subpoenaed on the part of the Plaintiff. I have never given any advice respecting this action. I advised the Plaintiff not to bring it. I don't know that there has been any subscription. There has been disputes about the Leeds Infirmary. Mr. Chorley and I had a dispute about the College of Surgeons. I have, repeatedly, taken a part, in order that there may be more Surgeons to the General Infirmary. It never happened to me to overlook a dislocation; I had a dislocation in a patient who had also a compound fracture of the lower jaw, and other injury, on the chest; had I attempted reduction, it would have proved fatal. If a Surgeon has his attention drawn to another complaint, he might overlook a dislocation. It has happened that Mr. Chorley and Mr. Hey have acted unprofessionally; I thought they did so, as well as meanly towards



myself; I thought the cause of their behaviour in that respect towards me was, because they were irritated and sore on account of my patients being quite satisfied with me. I was once a member of the Society of Friends, which I do not belong to now, I was born a Friend, I was about thirty when I ceased to be so. I was read out, because I was a bankrupt.

*Re-examined by Mr. Pollock.*—It is a rule of the Society of Friends to exclude bankrupts. The cause of my bankruptcy was, I had given a bond for £2,000. for another person who failed, and that, added to unfortunate speculations, led to my bankruptcy; I obtained my certificate immediately after the last sitting; it is now two years since; during that time, and since, I have been in business. I am Surgeon to nine or ten benefit clubs. It was my opinion that Mr. Chorley was jealous of my practice; I had reason to think so. There has been a difference in opinion between the elder and the younger members of the profession, in Leeds; Mr. Chorley did not take much part in it, neither did Mr. Hey. I believe Mr. Chorley and Mr. Hey are much acquainted; I don't know that they are intimate friends; they have, a great many years, been Surgeons in the same establishment. I believe Mr. Hey is subpoenaed both by the Plaintiff and the Defendant.

*Mr. Robert Taylor, examined by Mr. Alderson.*—I am a Surgeon in Leeds, and a member of the Royal College of Surgeons in London. I



have been so twenty years. I examined the shoulder of the Plaintiff on Saturday, the 1st of May. My opinion was that the shoulder was dislocated backward; it was capable of easy detection. On standing before the Plaintiff I observed a depression of the right shoulder, and on rotating the arm, I found the head of the shoulder bone resting upon the blade bone; that satisfied me that the bone was out of the socket. If the shoulder bone were dislocated, that would produce stoppage of motion of the upper arm, leaving the lower arm capable of moving. In case of paralysis, I should think the whole arm would be affected. If I had found a patient incapable of lifting the arm, for the purpose of being bled, and he complained of pain when I moved the elbow, I should certainly have expected dislocation. I should think such pain could not be produced by paralysis, or epileptic fits.

*Cross-examined by Mr. Patteson.*—I examined him, perhaps, five minutes. I did not think that the head of the shoulder bone was resting on the edge of the glenoid cavity, but that it was lying upon the back of the scapula. If the attention of a medical man be drawn to another disease which the patient had, he might overlook a dislocation without want of skill or attention. I have heard something of a subscription for this action, but not from the Plaintiff, nor with his knowledge.

*Re-examined by Mr. Alderson.*—If a patient were unable to raise his arm in a straight line



with the shoulder joint, I should suspect dislocation.

*Robert Wilson, examined by Mr. Baines.*—I am a Surgeon at Leeds; I have been in practice thirty-three years. I saw and examined the Plaintiff last night for the first time. In my opinion he will never have the use of his right arm. I have heard the nature of this dislocation described by the medical men. It is of rare occurrence; it is quite the contrary of being difficult of detection.

*Cross-examined by Mr. Brougham.*—I am not a member of the Royal College of Surgeons in London. I practised before the College was established. Mr. Chorley has been in practice longer than I have. I believe Mr. Chorley is a man of skill; he is in great practice, and is very attentive to his patients. If a Surgeon passed over a dislocation, when he was told a patient could not raise his arm, I should conclude he was of necessity deficient in skill, or that he was deficient in due attention, and I think highly culpable. I think a man might as well have looked at the shin bone as the spine, to discover the cause of pain in the right arm. Mr. Hey is reputed as a Surgeon of eminent skill; Mr. Chorley is also of good reputation, and very attentive to his patients. If I, as a Surgeon, had been told there was a numbness in both arms, I should unquestionably have referred to the spine; but if I were told there was great pain in the shoulder, and discolouration, I should not think to look at the spine



for the cause of it. A Surgeon of competent skill might have overlooked a dislocation, if his mind were directed to a spinal affection. I hope I should not have overlooked it. If a Surgeon be called in to attend a patient, and a person tells him to look at the shoulder of that patient, and takes his shirt and flannel waistcoat off, and bares the shoulder for the purpose of examination, then I should think a medical man could not miss seeing this dislocation. I don't know Mr. Wade, Mr. Chorley's assistant. I have had no disputes with any of the profession.

*Doctor Husband, examined by Mr. Pollack.*— I am a Physician and a general Practitioner in York. I have been in practise about 18 years. I have seen Mr. Stancliffe, and I examined him last night; there is no doubt but his right shoulder is dislocated now. From my acquaintance with Anatomy, I should say it is in the position it has been ever since the accident happened. It is a kind of dislocation of rare occurrence, but when it does happen it is as easily to be discovered, if there be a minute examination of the shoulder. In my opinion Mr. Stancliffe will never recover the use of his arm; he never will be able to lift it as high as his head.

*Mr. Brougham* rose to address the Jury on the part of the Defendant, and said—

He knew not whether he ought to rise and address them on the part of those most respectable Gentlemen, whose reputation on the present occasion was attacked, with any feeling of anxiety



for their professional reputation; which of course, to every man, but more especially to a medical professor, was the dearest possession, made up as that medical professional reputation was, of skill and competent knowledge, and of sufficient enlarged experience, to justify a man in taking upon himself the important office of attending to the health of his fellow creatures; and consisting, as it likewise did, in a great degree, in due attention to the cases of those patients who might put their lives, and limbs, and health in his hands; that such a character should remain unsullied, to any man who professed that great and important branch of Science, was of great importance. He was not aware how to deal with the attack which had then been made, and no sooner made than disclaimed; which had been made a second time, and was as swiftly a second time disclaimed. He felt himself in a state more embarrassing, and on that account more anxious than he almost ever remembered to have been placed in upon any similar occasion; for they would have observed that his learned friend commenced by stating he would raise no imputation upon the characters of Mr. Chorley or Mr. Bulmer; he admitted that they were Gentlemen of great usefulness in their profession, their respectability, the extent of their practise, indeed, they were out of the reach of being assailed. But it was a jest of his learned friend to say, he brought no charge against Mr. Chorley and Mr. Bulmer, for he called his witnesses, and a charge was made against them from



the beginning to the end, for want of skill, or for want of the most ordinary degree of common attention to their patients. But he begged leave to direct the attention of the Jury, and that of his Lordship, to what had been sworn by two of the witnesses. He meant Mr. Thackrah and Mr. Hepworth, by far the most respectable witnesses introduced. He thought their evidence was sufficient, without his calling a single witness to answer the case. For he thought they had answered the action already. For they have said that a skilful Surgeon might have omitted to discover the dislocation. They said they should have discovered it, had there been no swelling; and they all had agreed, had there been swelling, it would render the discovery more difficult.

Mr. Hepworth had said, if the whole of the circumstances of the case had been related to him, he might have overlooked it; then came Doctor Husband, who said he thought it might easily have been overlooked, from its rare occurrence. No man would say there was no swelling, even when Wade saw it; the accident took place at seven, and Wade saw it at eleven; and Mr. Hepworth had said the swelling would take place in three hours. Now they, the Jury, were to be convinced, and the Plaintiff was to satisfy them by evidence, that there was want of skill, or the want of due attention; that, either when Mr. Chorley saw it, or Wade the apprentice saw it, that the swelling had not commenced, or that the swelling had subsided, he submitted,



that the Plaintiff had not only failed to do that, but that the evidence, as to the swelling, led the other way. A medical man did not guarantee a recovery, for who was there that would undertake to guarantee against the course of nature, to which all men were liable, he only guaranteed reasonable care, and an ordinary measure of attention and diligence.

He contended that no neglect in this case had been proved, but might have occurred in the hands of the most skilful and competent surgeon in the country. He had hesitated whether he should call witnesses, but he felt he should not discharge his duty to his clients unless he did so.

[He then animadverted, in strong terms, upon the evidence of the first witness, Southern, and contended, that there was no want of skill and attention either on the part of Mr. Wade or Mr. Chorley.]

Why, he would ask, had his learned friend singled out a few medical men, out of the many who saw the patient, and examined the accident? Why was not Mr. Samuel Smith called? Why was not Dr. Williamson, and why not Mr. Hey? Why, again he would ask, was not Mr. Hey called? Because his learned friend knew what he would say, and he would give strong evidence in favour of Mr. Chorley; he was unwilling to occupy the time of the Jury, and that of his Lordship, by calling witnesses, if he could avoid it; indeed he thought that the Plaintiff had proved his case, and anticipated his defence, by



the testimony of Mr. Thackrah, Mr. Hepworth, Doctor Husband, and even by the testimony of Mr. Metcalf, who all agreed, that this accident might have been overlooked by the most skilful Surgeon.

Mr. Brougham concluded his address, by contending that there was no proof of want of skill or due attention on the part of the Defendants, and he trusted the Jury would liberate them from that charge against their professional reputation, by their verdict that day.

*He then called Jonathan Gantress Wade, who was examined by Mr. Patteson.*—I am an apprentice to Messrs. Chorley & Bulmer, and have been so ten months, before that I was with my father, at Wath, near Rotherham. I recollect being called up in the night of the 6th March last, about twelve or one o'clock. Thomas Marwood, the surgery man, called me up. I went down stairs, and found the first witness waiting for me; he said he wanted some one to go and attend Mr. Stancliffe in a fit. He did not tell me any thing else was the matter with him; I am sure of that. I went with him to Stancliffe's house, which is about a mile from Mr. Chorley's; when I got there, I went up stairs, and found Stancliffe in bed; his wife was there, and she told me he had been in two fits; that he had one in the counting-house, but no accident was described to me. I felt his pulse, and found it very quick; I bled him on the left arm, because he complained of pain in the right. I can't exactly



say, but I think he complained of both arms. He did not complain of pain in the shoulder; he complained of pain in his head. I did not examine his arms more than was necessary to bleed him. I did not examine his shoulder; his shirt was not stripped off from his shoulder, nor his flannel waistcoat torn down. I ordered him some aperient medicine. I might be with him half an hour, or more. Mrs. Stancliffe said to me, that he had a fit in the counting-house, and that he had two fits in bed. I don't know that she said any thing more particular; she said he had been very unmanageable; he had then come to his senses; he told me himself of his pain. I went home then, and a man went with me for the medicines. I was called up again about four o'clock in the morning; the man said Stancliffe had had some more fits, and that the pain in his arm was very bad; I sent a fomentation, and also an injection. I saw Stancliffe the next morning, about ten or eleven o'clock; Mr. Bulmer had been to him in the meantime, and had written a prescription, and ordered Mr. Nicholson to go and cup him, but he not being in I went; I had put on some of the cupping glasses before Mr. Chorley came. He came in after the cupping was begun, and went away before it was finished; Mr. Chorley examined his back, but he did not examine his shoulder. Mr. Stancliffe made no complaint about his shoulder, he did of pain in his arm, but no where else to Mr. Chorley. Mr. Stancliffe mentioned no accident to Mr. Chorley;



nor did any person else in the room in my hearing. I mentioned the fits to Mr. Chorley in the room. I did not attend him any time after that; no accident was mentioned to me.

*Cross-examined by Mr. Pollock.*—I have been with Mr. Chorley for ten months; I was nineteen years old in April last; I was bound apprentice to my father two years since last 4th April; I was educated partly in the neighbourhood of Wath, and partly in Doncaster; I had left school about one month before I was bound; my father is a Surgeon and general Practitioner; I was not transferred as an apprentice to Mr. Chorley; I was merely as a pupil or assistant; I am not licensed, either by the College of Surgeons or Apothecaries' Company, to act as an assistant.

Messrs. Chorley and Bulmer have an apprentice. Mr. Chorley's son is likewise an apprentice; they have a surgery-man, and myself, the pupil or assistant. I never attended lectures of any sort whatever. I was never examined in Medicine or Anatomy, or any thing else particular. I am an apprentice, though not to Mr. Chorley. I am with Mr. Chorley to learn the business; it was about twelve at night, or one in the morning, when the first witness called me up. I might then know the time, but I don't know particularly now what time it was. Mr. Chorley does not live at the surgery; Mr. Bulmer does. The surgery man went to Mr. Bulmer first, then called me, and I went. Southern said Mr. Stancliffe was in a fit. He said he was very ill, and wanted



some one to go immediately. He described him as suffering very much ; he said he was very bad to manage, and very ill. I have attended a few patients in different diseases, but I never attended epilepsy before. I went and found Stancliffe in bed. I felt his pulse upon his right arm ; he was lying down in bed, and I proposed to bleed him. I can't say whether he was sitting up in bed, or lying down, when I bled him. I did not go there in my night-cap. I proposed first to bleed him in the right arm, but he complained of pain in his arm when he was moved. One side of the bed was to the wall on the left ; I had to get on the bed, and cross over to the other side to bleed him on the left arm. I did not, for any length of time, wish to bleed him on the right arm. He complained of pain, therefore, I did not wish to disturb him. I took no pains in examining the arm. I took pains, but I had no suspicion of his arm. I did not ask him whereabouts the pain was, because he said it was all over the arm. He did not at all complain of his shoulder. I know nothing about the dislocation. I have never seen it since. I have seen a dislocation of the shoulder at the Infirmary ; I cant swear I have seen two in all my practice. I saw one at the Infirmary about two months since. I dont know at the time I attended Stancliffe that I had seen a dislocation at all. I mean to swear that Stancliffe that night did not complain of his shoulder. I dont mean to swear he complained of both arms that night, but I believe he did.



He was bled in the left arm, which was done with little inconvenience to him. It was rather inconvenient for me, though he complained of pain in his right arm. I did not move it to see what the cause was. I don't know that I have seen any body in epilepsy before, nor a dislocation before. I knew that fits had the effect of giving pain in the arms. I did not know that he had tumbled down at all. He told me that the fit took place above five or six o'clock in the afternoon. I did not enquire whether he had tumbled down or not. I found that he complained of pain, but did not enquire how he had fallen. I did not move the different parts of his arms about so as in any degree to ascertain what the cause of pain was. I took about a pint of blood from him, and prescribed an aperient mixture and opening medicine. I did not prescribe without consulting Mr. Bulmer. I bled him without consulting Mr. Bulmer. Mr. Bulmer was in bed, and I conversed with him in his room. I told him what the man ailed; they told me he was very awkward to hold, and very unmanageable. I thought it was not a fit of epilepsy. I mean to swear that that night Stancliffe's shirt was not pulled down, nor his flannel waistcoat torn; that his shoulder was not exposed at all, and that I did not, in any degree, examine the arm at all to trace the reason of the pain. I did not examine the arm. I did not examine to see if the arm was broken. I did not like to move his right arm, because he complained of pain when it was



moved. I moved it myself, and he cried out, and therefore I left him. I was called up again at about four o'clock, and the man said he had had some more fits. I dont know whether I went to Mr. Bulmer upon that or not; I dont know that I did, or I did not go to Mr. Bulmer; my mind is a perfect blank upon that subject. I have not the slightest notion that I went to Mr. Bulmer that night. He said the pain in his arm was still very bad, and then I prescribed the poppy heads and camomiles, and also an injection. I dont know that I did go to Mr. Bulmer; and I dont know that I did not. The next morning Mr. Chorley was there. He was cupped on the back and between the shoulders. His shoulder was not exposed at that time. Mr. Chorley and Mr. Bulmer attended until the 23rd of the same month, and on that day they called and found him out. They did not attend him in the month of April. He came to our house for medicine from Doctor Williamson's prescriptions. I remember him coming to Mr. Chorley's some weeks after that. He said then he was told that his shoulder was dislocated, and that he had been desired to come there. Mr. Chorley said something to this effect: If they tell you your shoulder is dislocated let them put it in again. I did not see Mr. Chorley then examine him.

*Re-examined by Mr. Brougham.*—Mr. Bulmer was either unwell or had been up a night or two, or harrassed with business. I have attended the Infirmary during the time I have been with Mr.



Chorley. I have not attended lectures before. It is usual for young men to begin by attending a surgery before they attend lectures. I read medical books; (a book being put into his hand,) he said I keep this book, and it enables me to say that the visits there entered, were made. I communicated to Mr. Bulmer what I had done, and the aperient medicine he approved of. I did not examine his shoulder. They said nothing to me to direct my attention to it.

*By Mr. Pollock.*—Mr. Stancliffe was not attended from March 16th down to the 26th April, but by Doctor Williamson. Doctor Williamson made his appearance on the 9th April, and his prescriptions were made up.

*The Judge.*—Mr. Brougham, the case appears to be coming into a much narrower compass. I shall hold that the Defendants are responsible for the incompetency of those who they send to visit their patients. They are answerable if an incompetent person is sent, and instead of sending that young man, they should have sent no one, but have let the person go to another Surgeon.

*Thomas Marwood, examined by Mr. Patteson.*—I am surgery-man at Messrs. Chorley and Bulmer's. I remember being called up during the night of the 16th March. I think it was about one o'clock in the morning; it was either late in the night of the 16th, or early in the morning of the 17th. I don't know the person who came; he rung the bell very hard, and said he wanted the master to go down immediately to Mr. Stancliffe's



house, that Mr. Stancliffe was in a fit. I asked the person whether the master had attended him before, and he said he had attended him in a fit before. I went to Mr. Bulmer, and told him; Mr. Bulmer was unwell and had gone to bed early that night, and he desired I would send Mr. Nichols down. Mr. Nichols is an apprentice, and was unwell, and he asked Mr. Wade to go, who immediately got up and went. I then went to bed again. The message the second time was, that Mr. Stancliffe was in another fit, and worse, and they wished Mr. Chorley to go down immediately.

*Doctor Williamson, examined by Mr. Brougham.*—I am a Physician at Leeds, and have been in practise there twelve years. I recollect being applied to by Mr. Stancliffe, about the 8th April, to consult me. He had been under Mr. Chorley's care for three or four weeks on account of fits. He informed me that sometime previously to the first fit, which had taken place about the middle of March, he had been subject to occasional pains in the head. He assured me he had a fit, as I understood; about the middle of the day or in the afternoon; and I understood him to say, it was in the counting-house; that he did not then send for assistance, and that he had another during the night, and that his friends sent to Mr. Chorley for assistance. He said he had one or two more fits subsequently. He complained then of occasional pains in the head, and of occasional affections of the sight. He mentioned that he



had pains in his arms, particularly in his right, but that he had pain in both arms. As far as I can recollect the history of the case he referred the pains to the day after the second fit. I understood that he felt numbness in his arms. I have not the slightest recollection of his having referred particularly to the shoulder, or mentioning any thing which suggested the probability of a local injury. He called upon me in about a week after, and said he was better; and I recommended him to continue the prescriptions. I have no recollection of his having complained, at any time, of the shoulder, or any particular part more than another. The only time I heard him refer to local injury was, I think, about the 1st or 2nd May. He then called upon me to inform me, it had been discovered that his shoulder was dislocated, according to the best of my judgment. I can conceive circumstances in which bleeding would be necessary, but it is not the ordinary remedy resorted to. It is the usual and proper practice to administer aperient medicines.

*Cross-examined by Mr. Pollock.*—I did not examine Mr. Stancliffe; there is a wide difference between a Surgeon and a Physician; the one is for the practise of surgery, the other is medical. his visit to me was purely medical, yet, though His visit to me was medical, and not surgical, had I conceived there existed any dislocation, it is probable, before I sent him to a Surgeon, I should have gratified my curiosity in examining



him; I understood he had been under Mr. Chorley's care. The circumstances of the case might probably draw my attention from the surgical part; I have not examined him since. I have not ascertained whether there is a dislocation or not; when he called upon me a second time, he had his arm in a sling, and when he called upon me the last time, he seemed to have a diminished use of both arms; he informed me he had a diminished use of both arms; I will take upon myself to swear he never spoke of the right arm. I am one of the Physicians of the Leeds General Infirmary; there are three Physicians to that institution. Mr. Chorley is the senior Surgeon, and Mr. Hey is another. I am not aware that I am upon more intimate terms with Mr. Chorley than with any other person of the medical profession in Leeds; we are, I am happy to say, upon friendly terms; I have, occasionally changed visits with Mr. Chorley, and I do so with every respectable medical man who may ask me. I never requested the Plaintiff not to mention my name, or not to mix up my name in this business; I asked him if my name was mentioned; he said it was not, and that he did not intend to mention it.

*By Mr. Brougham.*—I had no desire to come to York for one thing.

*Mr. Thomas Pridgin Teale, examined by Mr. Patteson.*—I am a Surgeon at Leeds; I am not one of the Surgeons of the Leeds Infirmary. I have been in practise in Leeds seven years and a



half; I am in partnership with my father; I was with my father six or seven years before I was in partnership; during that time I attended the Infirmary. I recollect Mr. Stancliffe calling upon me one morning; it was the day previous to the attempted reduction of the limb. I examined his shoulder; I found a very slight projection of the acromion process in front; a very slight projection of the head of the humerus behind; and no projection of the acromion laterally.

*By the Judge.*—In a literal sense, the bone was dislocated; it was not entirely out of the socket.

*Examination continued by Mr. Patteson.*—It was evident that the joint was not quite natural; it was not swelled at that time; there was no great displacement; a slight swelling might prevent the dislocation from being seen; a Surgeon of competent skill, if swelled, might have overlooked it. This sort of dislocation is extremely rare, it is on that account more difficult of detection; I think it possible for any Surgeon to have overlooked it, if his attention had not been particularly drawn to it. I have heard the greater part of the evidence given here to-day. The time when swelling takes place varies; the average length of time is a few hours. If an accident occurs at six o'clock, and a Surgeon is not sent for till twelve, I think he might not discover it, provided his attention was not drawn to it. If there were no complaint of pain in the



shoulder, but of pain in the arm, a Surgeon might not draw the conclusion that the shoulder was dislocated.

*Cross-examined by Mr. Pollock.*—This sort of dislocation is rare, and on that account more difficult to be discovered. Whether the Plaintiff is better or worse now, I don't know; I know he cannot lift his arm up; I think he will not have a perfect use, but that he will have a considerable use of it. I ascertained the extent of movement, and it was considerable, but he could not raise it up. I cannot speak as to whether he will ever be able to shave himself or not; I don't think he has been able to shave himself with the right hand since the accident. In ordinary dislocation the appearances are such, that they cannot well be overlooked.

*Re-examined by Mr. Brougham.*—I think the motion of the arm, by surgical skill, may yet be improved.

*Wm. Hey, Esq. examined by Mr. Brougham.*—I have been a Surgeon thirty-six years; I am one of the Surgeons of the Leeds General Infirmary, and have been so since 1812. I have attended the Infirmary the whole of the thirty-six years. I succeeded my father in business. I was applied to about the latter end of April, to give an opinion upon Mr. Stancliffe's shoulder; when Mr. Stancliffe first spoke to me, he told me he believed his shoulder was dislocated; whilst his clothes were on, I said that it did not appear so; when I examined him after being stripped, I



changed my opinion. The opinion I gave him was, that the bone was not in its place, but I doubted whether the dislocation was complete; I never saw a dislocation like it, and I don't know that it is described in any work; it was a species of dislocation which I think might escape a person's attention, without attributing to him any want of skill; the appearance of it was not so well marked as in the ordinary dislocations; but a person might overlook it whose attention was not directed to it; I think I should have discovered it had I examined the shoulder. If there had been a slight degree of swelling it would render the discovery more difficult; the time the swelling comes on depends upon the degree of violence that may have occurred; in four or five hours, or it may occur in less. In cases of epilepsy, cupping and aperient medicines might be proper treatment; if there be pain in the arms fomentations would be very proper. It is a usual thing for young men to begin their medical studies by entering a surgery before they attend lectures. I have known Messrs. Chorley and Bulmer for many years; they are Surgeons in extensive practise; they are attentive to their patients, as well as skilful.

Two casts of the right shoulder, taken from a dead body, were produced in court, for the purpose of shewing the difference between the shoulder when natural and when partially dislocated. After having taken the natural cast of the shoulder in the first instance, the arm was



partially dislocated to take the other cast ; although there appeared some difference, it was very trivial.

*Cross-examined by Mr. Pollock.*—Mr. Chorley and I am quite friendly with each other, but not upon terms of particular intimacy. I think I should have discovered the dislocation had I examined it carefully. If I found a man complained of pain in the upper part of his arm, and that he could not lift it up, I should have thought it my duty to examine it to ascertain the cause.

*By Mr. Brougham.*—The casts were made from the shoulder of a dead body.

[Mr. Hey wished to explain his meaning, when he said, that he knew of no author who had described such a case as Mr. Stancliffe's. Sir Astley Cooper and others had described the dislocation of the arm backwards, but he thought the present case was only a partial dislocation, and if he were to give it a name, he would call it a semiluxation of the shoulder backwards.]

*Mr. Samuel Smith examined by Mr. Patteson.*—I am a Surgeon at Leeds ; I have been so about eighteen years. I have been eleven years one of the Surgeons of the Leeds General Infirmary, and was house pupil to Mr. Charles Bell, of London. Mr. Stancliffe and his wife came to me, and told me he had received a hurt upon his shoulder. I cannot remember whether he said it was dislocated or not. I took him into my private room, and stripped him, knowing that there were only four kind of dislocations described by Surgical authors. I examined him as to those



points. I thought in the first instance it was not dislocated. I examined under the Acromion process, and felt the head of the bone under it. In consequence of that I examined the shoulder for several other accidents to which it is liable. I examined both the extremities of the collar bone to ascertain whether there was a dislocation there. I also examined that bone for fracture. I found he had very little motion in the upper part of his arms. This I attributed to an injury of the deltoid muscle, which is a very common case. I therefore recommended him to have the shoulder diligently rubbed, and directed him to purchase a pulley; that he was to fix this pulley in his house; to get a cord to run over it; and directed him to use it so as to give proper motion to the arm. If there be partial dislocation, I think it is now the only means that will be of any service to him. I also stated to him, if he followed these means diligently he would probably, in the course of a few weeks, recover the use of his arm. I did not then discover there was a dislocation. The swelling had subsided at that time. I saw a dislocation backwards, on the 15th December, 1819; it was an Infirmary patient, and I believe the only instance of that peculiar dislocation which has been seen in that institution since its establishment, now upwards of sixty years. I was not present when Mr. Stancliffe's shoulder was attempted to be reduced. I saw Mr. Stancliffe again, at Mr. Metcalf's, on the 14th May; I then examined him; I was not aware it was the same



person who had been at my house; I found there was a partial dislocation. I made the two casts which have been produced.

*Cross-examined by Mr. Pollock.*—A person, who had neither seen a case of epilepsy or a case of dislocation, is not a person of competent skill to attend upon such an occasion.

*By Mr. Brougham.*—A person of competent skill could not have done better than cupping and giving aperient medicines; I should think that a very proper practise, and indicated no want of skill.

*Mr. Pollock replied,*—His learned friend had been pleased to complain that he had made an attack upon Mr. Chorley, that it was no sooner made than disclaimed, and that it was made again, and again disclaimed. As to Mr. Chorley's practise, and his experience and character generally, he was willing to allow Mr. Chorley all the merit he was entitled to. He only wished it were possible that Mr. Chorley himself might be able to attend all his patients, and that they might not be attended even by Mr. Bulmer; certainly not by Mr. Wade. He could not help calling the attention of the Jury to the very extraordinary address of his learned friend Mr. Brougham, which reminded him of a school-boy, who was just going to plunge into the water; he looked at it, considered the coldness of it; went backwards and forwards, looking at it again, still dreading the coldness of it, till at length he mustered up



courage, and in he went. He had also reminded him of some lines he had read in Hudibras ;—

“ He traversed the cart—

And often took leave, but was loth to depart.”

He beg'd that they, the Jury, would contrast what his learned friend had stated, with what Wade himself had stated. Was not his learned friend's case, that there was a swelling which prevented Wade from seeing the dislocation? Was it not in his learned friend's brief that the accident had produced swelling, and on account of the swelling Wade could not see the dislocation. He would put it to them, as men of sense, had they the least doubt, or could they have, that his learned friend's case in his brief was that Wade was misled by the swelling. Wade had been put into the witness-box, and undoubtedly, he was the most important witness in the case. The examination of Wade, he Mr. Pollock, cared not whether they took it to be true or false; false he thought they would believe it to be, but taken in any way it entitled the Plaintiff to a verdict; and if one expression of blame were to pass upon Mr. Chorley, it might fairly be said that of all persons Wade ought not to be allowed to visit patients, having never seen a case of epilepsy or dislocation of the arm before. If Wade were there as the pupil of Mr. Chorley, he ought not to have interfered as an assistant; if he were there as an assistant, there was a violation of the law. He contended that the Defendants were



answerable for the conduct of Wade. He said, was there any one that would dare to say that the arm was not dislocated?

[Mr. Chorley (who was sitting under the Judge) rose and said, "I do pronounce that it is not dislocated."

*Mr. Pollock* continued—He must say that Mr. Chorley had been guilty of one of the greatest indecorums that he ever knew of; that Mr. Chorley should himself get up in contradiction to the witnesses called on both sides, and put his personal weight into the scale, and presumptuously set up his judgment against that which other Persons have sworn, and in his own cause, state with his own mouth that which was to pronounce that so many persons were perjured, or were wanting of skill, was highly indecorous. Mr. Chorley must have known, that as one of the Defendants, his voice was not to be heard in the cause, but it might be, that Mr. Chorley had possibly attended some one of them, and he (Mr. Pollock) could conceive no greater obligation than was felt by patients to their Surgeons, from whom they had received relief. In his opinion, he made that statement, in the hope that he might have some friend upon the Jury who would rather listen to him than to the many witnesses who had been examined on both sides, and who had all agreed that the arm was dislocated. He (Mr. Pollock) was confident, if that were Mr. Chorley's expectation, he would be deceived, for he had the happiness to address Gentlemen who would, under



these circumstances, forget Mr. Chorley, though his professional services might have laid them under the greatest obligations. He hoped Mr. Chorley would long preserve the character that attached to him in his profession; he hoped he would long enjoy his well-earned reputation; but he trusted the Jury would decide upon the evidence, and not upon the statement of Mr. Chorley, which was in direct opposition to all the witnesses. He would ask, did the Jury think Wade was the person who ought to have been sent on that occasion? Aye—or no! Was he a person of any skill? No! he had seen neither of the cases—Epilepsy or Dislocation. Could they doubt for a moment that, through his negligence, or want of skill, the Plaintiff was crippled, and must have an under-arm for the rest of his life. The sending of Wade in the first instance, incompetent as he was, entitled him to their verdict; and the question alone was, what were the damages they would give. He (Mr. Pollock) hoped the time would never come, when the profession, to which Mr. Chorley belonged, would not be respectable. There were few persons who could not but recollect, with the most unbounded gratitude, those persons from whom they had experienced relief, and he trusted that feeling would exist for ever; but when such a person as Wade was substituted for the valuable assistance of Mr. Chorley, then he called upon them for every shilling damages which the Plaintiff had sustained by his negligence or want of skill; he



had a right to expect he should receive the utmost compensation. And when they came to consider he was crippled, with respect to many important offices ; that he had a wife and four children who looked up to him for support, they would think that he acted properly in calling upon Mr. Chorley for a reasonable compensation in damages for the injury he had sustained, in consequence of the want of skill in Wade. With these observations he would leave the cause in their hands, and he trusted they would award such damages as the justice of the case required.

*The Judge.*—This was an action brought by the Plaintiff, in which he sought to recover at the hands of the Jury a compensation in damages for injury, which he had sustained in consequence of the want of competent skill, care, and attention on the part of the Defendants ; and if they were satisfied in the service which the Defendants undertook to perform, they fell short of a due degree of skill, care, and attention, whether applicable to themselves, or to the person whom they employed, the Plaintiff would be entitled to their verdict ; and only if upon the evidence they were satisfied that there was not a want of competent skill, care, and attention, could the Defendants be entitled to their verdict ? It was quite a principle of law, that all persons were answerable for the acts of those whom they employ in the course of their duty. And the question was, inasmuch as the present Defendants neither of them in the first instance attended the Plaintiff, at the time medi-



cal aid was first required at their hands, did or did not exhibit a due degree of care and attention. There was one or two facts about which there was no dispute. There was no dispute that on the afternoon of the 16th of March, the Plaintiff having been visited by an epileptic fit, fell upon the floor. It was also perfectly clear from the evidence, that there had been a partial dislocation of the shoulder ; upon that point all the witnesses were agreed, both those on the part of the Plaintiff, and those on the part of the Defendants. The only question was, whether, if competent skill and diligence had been employed, that injury might have been prevented? If it could, the Plaintiff was entitled to a reasonable, fair, and adequate compensation from the Defendants, for the injury he has sustained ; whether it was sustained for want of care and diligence from themselves, or the person who was sent by them. What they would bear in their minds was, whether the injury that had been sustained was of that nature and description, that ordinary care and diligence might not have discovered it in time to have applied a remedy for it; or whether it was so mixed up with the effects of epilepsy, that a discreet and prudent person might have overlooked it, without having shewn any want of care or due attention. If they were satisfied that Wade was not a fit or proper person to have sent, in a case like the present ; a man who had never seen a fit of Epilepsy, or an instance of dislocation. The question would be, if a person of competent



skill had been sent, he would not have made further investigation than Wade had done, in endeavouring to find out the cause; if so, the Defendants are answerable in Law.

The second part of the case was, whether the Defendants in the course of their subsequent visits, ought, by the application of due care and diligence themselves, discovered it, and treated it with propriety.

The learned Judge then recapitulated the evidence, and observed, that although one of the witnesses, called upon the part of the Plaintiff, had said he considered it an ill-natured action, there was no evidence whatever of personal or party feeling; and he concluded by observing, that if they were of opinion that there had been a want of due care and attention; they were to consider what they conceived to be a fair and reasonable compensation, for an injury inflicted upon an individual circumstanced as the Plaintiff was. If they thought from the whole of the evidence, that no want of skill or of due care and attention was wanting, either on the part of Wade, Mr. Chorley, or Mr. Bulmer, in that case, and in that case only, their verdict must be for the Defendants.

The Jury, after having retired for an hour, returned a verdict for the Plaintiff, Damages £150.











