

**A report of the judgement in Dew v. Clark and Clark / delivered by the Right Honourable Sir John Nicholl in the Prerogative Court of Canterbury [respecting the validity of the will of Ely Stott], Easter term, 1826. Edited ... by John Haggard.**

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A R E P O R T  
OF  
THE JUDGMENT  
IN  
DEW v. CLARK AND CLARK,

DELIVERED BY  
THE RIGHT HONOURABLE  
SIR JOHN NICHOLL,  
IN THE PREROGATIVE COURT OF CANTERBURY.  
EASTER TERM, 1826.

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EDITED, BY PERMISSION, FROM THE JUDGE'S NOTES,  
BY JOHN HAGGARD, LL. D.

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43. FLEET-STREET.  
1826.

A R R P O R T

THE JUDGMENT

J. Jackson

Sir John Nicholl

The question in this case is whether the defendant is liable for the loss of the goods. The defendant claims that the goods were lost due to the negligence of the plaintiff's servants. The plaintiff claims that the goods were lost due to the negligence of the defendant's servants. The court has found in favor of the plaintiff.

properly assigned to Sir John Nicholl



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1898

## DEW *v.* CLARK AND CLARK.

EASTER TERM, 1826.

### *Judgment.*

SIR JOHN NICHOLL.

THE question in this case respects the validity of the will of Ely Stott. He died, on the 18th of November 1821, at the age of 72 years. He left behind him a widow, and an only daughter by a former wife. He had several nephews and nieces, but of course none of them were entitled in distribution. His property amounted to near 40,000*l.* In the month of February 1821, the wife applied for a commission of lunacy against the deceased, which was granted and executed, and the deceased was found of unsound mind from the preceding 1st of January. The will propounded bears date in the month of May 1818—three years before the finding under the inquisition. The substance of the will is as follows :

To his wife he gives the furniture, books, &c. — to his nephew, Thomas Clark, 100*l.* — to his nephew, Valentine Clark, 150*l.* — to Daniel Goff——(the amount is left in blank)—1333*l.* 6*s.* 8*d.* 3 per cents. is given to trustees to pay the dividends to Lydia Iley, spinster, for her sole use : after her death, these 3 per cents. are to fall into the residue. A similar sum is given, in trust, for the children of Mrs. Jouis, and this sum is ultimately to fall into the residue. He gives 2833*l.* 6*s.* 8*d.* 3 per cents. to trustees, to pay the dividends to his daughter for her separate use. He likewise gives them all the money due to him, as

representative of his first wife, under the will of the Honourable Charlotte Clive, in trust to invest it, and pay the dividends to his daughter for her separate use. After the daughter's death both sums are to fall into the residue. To any servant, who had lived with him for five years at the time of his death, he gives an annuity of 40*l.* He bequeaths to Messrs. Reid, Fletcher, and Rawlings, his executors, a legacy of 50*l.* each; and the whole residue, real and personal, to his executors in trust, to pay his wife an annuity of 400*l.* during her life or widowhood. If he leaves any children by his then wife the residue is to be divided among them; if there are no children, then the residue is to go to his nephews Thomas and Valentine Clark. He appoints his wife, Reid, Fletcher, and Rawlings, executors.

This is the substance of the will — a disposition, undoubtedly, very much to the prejudice of the daughter, who, out of this large property, has merely an annuity for life of about 100*l.* But this will was fully and formally drawn up, was regularly executed, and attested by three respectable witnesses.

Soon after the death of Mr. Stott, all the executors having renounced probate, administration, with the will annexed, was taken by the residuary legatees — Thomas and Valentine Clark. Not long after, viz., in the month of April 1822, the administration was called in by the daughter and only child. The will was propounded by the residuary legatees, and opposed by Mrs. Dew, the daughter.

The first allegation given for the executors pleaded merely the *factum* of the will, and the death, character, and handwriting of one of the attesting witnesses. In support of this allegation the two surviving

witnesses were examined, and the *factum* was proved. In particular, Mr. Bramley, the solicitor who prepared the will, proves instructions from the deceased himself; several interviews with him; the different stages of the preparation; and finally the regular execution. Both witnesses, Bramley and Hammond, speak to their conviction and belief, that the deceased was of perfectly sound mind when he made this will.

If the case rested upon the evidence of the *factum*, as proved by the witnesses on the *condidit*, there could be no doubt nor question upon the case.

The ground, on which the will is opposed, is not a denial of the instructions and execution; is not a suggestion of any fraud or circumvention, nor of any extrinsic influence: it is not alleged, that the will did not originate with himself, was not prepared and completed by his direction, nor that the attesting witnesses have misrepresented the facts, nor that they have not given an honest opinion of the state of the deceased; but the ground is, that though the will is the mind of the deceased, yet that it was not a sound but an unsound mind — unsound in the legal acceptation of the epithet — “deranged and insane.” The clear rule of law is, that the burthen of proof in such a cause lies on the party setting up insanity.

The general outline of the plea, on behalf of the daughter is, that the deceased showed strong marks of derangement towards his first wife, and at the birth of this daughter: that towards the daughter he showed great antipathy and hatred; that in respect to her he laboured under delusion of mind; declared she was invested by nature with singular depravity; was an abandoned profligate, vile and irreclaimable: that he treated her with the greatest cruelty and

violence, notwithstanding she was dutiful and virtuous; that in various other respects he exhibited marks of insanity. — The admission of this plea, which was very long and detailed, was opposed; and the Court was of opinion, that it disclosed a case difficult of proof, but that, if proved, it would be available.

In answer, a long plea was also given in support of the will; pleading the general sanity of the deceased in the whole of his conduct; pleading his character, temper, and religious principles, as accounting for harshness towards his daughter; and alleging such misconduct in the daughter as afforded rational grounds for severity during her education, and for displeasure afterwards; such as showed that he acted not under derangement, but upon facts which he considered as justifying his resentment.

In supply of proof many documents were exhibited, principally letters of the deceased, showing the grounds on which his mind proceeded; and letters of the daughter, acknowledging her misconduct, and promising future conformity to his wishes. At present, I state the mere outline and character of the cases on each side, as I must refer to the detail of facts when I examine the evidence: this outline shows that it is a case attended with no small difficulty, and so it was originally viewed by the Court; that it requires to be examined with great care and caution, and necessarily runs into a great length and detail of facts, forming perhaps one of the greatest masses of evidence that was ever presented to this Court.

The validity of this will, as was correctly argued (a),

(a) Dr. Lushington and Dr. Pickard were of counsel in support of the will: Dr. Jenner and Dr. Phillimore, *contra*.

cannot be touched or shaken, unless the Court be morally convinced that the deceased, when he made it, was of unsound mind.

Eccentricity of character, if it does not exceed eccentricity, will not take away the right of disposing by a testamentary act. Severity and violence arising from natural temper and passion, though harsh and unjustifiable, may not prove derangement. The Court must indulge in no feeling of compassion towards the party opposing the will, though she be an only child,—though she were proved to be the most amiable and unoffending of her sex,—though her father had in life treated her with unmerited cruelty, and at his death cut her off from an ample fortune, with a mere pittance of an annuity; thereby excluding even her issue, who could never have offended him. The deceased, in exercising the right which the law allowed him to dispose of his property, might, from caprice, give the bulk of it to public charities, or religious societies, as he had done in wills executed by him a year or two before; or he might now select two nephews out of several others in the same degree, though he might have scarcely had any intercourse with them, and might substitute them as the objects of his bounty in the place of his only child, and of these religious societies. This might be caprice and injustice, but was it insanity?

The true point, then, which I have to decide is, whether the deceased was of sound mind, or was he of unsound mind?—and to the decision of that issue I must steadily direct my attention.

The first point for consideration, and which should be distinctly ascertained, as far as it can be fixed, is; what is the test and criterion of unsound mind,



and where eccentricity or caprice ends, and derangement commences. Derangement assumes a thousand different shapes as various as the shades of human character. It shows itself in forms very dissimilar both in character and in degree. It exists in all imaginable varieties, from the frantic maniac chained down to the floor, to the person apparently rational on all subjects, and in all transactions save one; and whose disorder, though latently perverting the mind, yet will not be called forth except under particular circumstances, and will show itself only occasionally. We have heard of persons at large in Bedlam acting as servants in the institution, showing other maniacs, and describing their cases, yet being themselves essentially mad. We have heard of the person who fancied himself Duke of Hexham, yet acted as agent and steward to his own committee. It is further observable, that persons under disorder of mind have yet the power of restriction from respect and awe: both towards their keepers, and towards others in different relations, they will controul themselves. There have been instances of extraordinary cunning in this respect, so much as even to deceive the medical and other attendants, by persons who, on effecting their purpose, have immediately shown that their disorder existed undiminished.

It has probably happened to most persons, who have made a considerable advance in life, to have had personal opportunities of seeing some of these varieties, and these intermediate cases between mere eccentricity and absolute frenzy, — maniacs who though they could talk rationally, and conduct themselves correctly, and reason rightly; nay, with force

and ability, on ordinary subjects, yet, on others, were in a complete state of delusion — which delusion no argument or proofs could remove. In common parlance, it is true, some say a person is mad when he does any strange or absurd act; others do not conceive the term “madness” to be properly applied unless the person is frantic.

As far as my own observation and experience can direct me, aided by opinions and statements I have heard expressed in society, guided also by what has occurred in these and in other courts of justice, or has been laid down by medical and legal writers; the true criterion is — where there is delusion of mind there is insanity; that is, when persons believe things to exist which exist only, or, at least, in that degree exist only, in their own imagination, and of the non-existence of which neither argument nor proof can convince them, they are of unsound mind: or, as one of the counsel accurately expressed it, “it is only the belief of facts, which no rational person would have believed, that is insane delusion.” This delusion may sometimes exist on one or two particular subjects, though, generally, there are other concomitant circumstances — such as eccentricity, irritability, violence, suspicion, exaggeration, inconsistency, and other marks and symptoms which may tend to confirm the existence of delusion, and to establish its insane character.

In confirmation of the opinion thus expressed, it will not be improper to refer to some authorities both medical and legal.

Medical writers have laid down the same criterion by which insanity may be known. Dr. Battie, in his

celebrated treatise on Madness (*a*), thus expresses it. After stating what is not properly madness, though often accompanying it, namely, either too lively, or too languid a perception of things, he proceeds:—

“ But *qui species alias veris capiet, commotus habebitur*, and this by all mankind, as well as the physician; no one ever doubting whether the perception of objects not really existing, or not really corresponding to the senses, be a certain sign of madness: therefore, ‘deluded imagination’ is not only an indisputable, but an essential character of madness.” (*b*)

“Deluded imagination,” then, is insanity.

Mr. Locke, who practised for a short time as a physician, though more distinguished as a philosopher, thus expresses himself in his highly esteemed work on the Human Understanding: “Madmen, having joined together some ideas very wrongly, mistake them for truths.—By the violence of their imaginations, having taken their fancies for realities, they make right deductions from them.”—“Hence it comes to pass, that a man, who is of a right understanding in all other things, may, in one particular, be as frantic as any in Bedlam.”—“Madmen put wrong ideas together, and so make wrong propositions, but argue and reason right from them.” (*c*)

Here again, the putting wrong ideas together, mistaking them for truths, and mistaking fancies for realities, is Mr. Locke’s definition of madness; and he states, that insane persons will reason rightly at times, and yet still are essentially mad; and that they may be mad on one particular subject only.

(*a*) London, 1758.

(*b*) S. 1. p. 5.

(*c*) Locke on the Human Understanding, book 2. c. xi. s. 13.

I shall only refer to one other medical authority ; but he is a person of great name as connected with mental disorder, — I mean Dr. Francis Willis. In a recent publication by this gentleman, there occur passages not undeserving of my attention : the work is entitled, “ A Treatise on Mental Derangement,” being the substance of the Gulstonian Lecture delivered before the College of Physicians in the year 1822, and published in the month of March 1823. Preceding his work, he gives a list of authors whom he has consulted, and he seems to have referred to almost every writer on the subject, ancient and modern : he also has personally had great practice in the particular disorder, as well as the advantage of acquiring much knowledge from the distinguished experience of his family. I will first refer to a passage where he points out the difference between an unsound mind and a weak mind.

“ A sound mind is one wholly free from delusion. Weak minds again only differ from strong ones in the extent and power of their faculties ; but unless they betray symptoms of delusion, their soundness cannot be questioned. An unsound mind, on the contrary, is marked by delusion, by an apparent insensibility to, or perversion of, those feelings which are peculiarly characteristic of our nature. Some lunatics, for instance, are callous to a just sense of affection, decency, or honour ; they hate those without a cause, who were formerly most dear to them ; others take delight in cruelty ; many are more or less offended at not receiving that attention to which their delusions persuade them they are entitled. Retention of memory, display of talents, enjoyment in amusing games, and an appearance of rationality on various

subjects, are not inconsistent with unsoundness of mind ; hence, sometimes, arises the difficulty of distinguishing between sanity and insanity.”

“ The man of insane mind from disease, having been once *compos mentis* ; pertinaciously adheres to some delusive idea, in opposition to the plainest evidence of its falsity ; and endeavours, by the most ingenious arguments, however fallacious they may be, to support his opinion.” (a)

Dr. Willis, in another passage, refers to the mistakes which are often made in respect to recovery from insanity, and to what are called “ lucid intervals.” This may also deserve some notice.

“ Many imagine, that when a patient can converse quietly and rationally upon general subjects, he is a sane man ; hence, this state is sometimes denominated a ‘ lucid interval.’ No man, however, can be considered sane, until he freely and voluntarily confesses his delusions. Every physician, acquainted with the disorder, knows that a patient may be capable of conversing correctly upon many subjects, and even of restraining himself for a time from alluding to that upon which his delusion turns ; if, however, this particular subject be accidentally brought to his attention, he will give evident proofs of his derangement. This state is not, therefore, properly an interval of sanity ; for, though we see the patient capable of being clear and lucid on many subjects, still finding him at the same time lost and bewildered on one, he cannot, with any propriety, be deemed in his senses, or of sound mind. This fact, moreover, explains why the experienced physician will never certify to

(a) Willis on Mental Derangement, pp. 221. 228.

the sanity of any individual, without having frequently examined him in new situations, and under different circumstances; while the inexperienced, through his ignorance of the complaint, often does it, in confirmed cases of insanity, because the patient is capable of saying the Lord's prayer, repeating the multiplication table, or playing a game of whist." (a)

Without commenting on these passages at present, they will be sufficient, in point of medical authority, to justify the opinion which the Court has expressed; or rather, they do, more correctly and fully, express that opinion.

I will next notice some legal authorities: Lord Coke and Lord Hale were referred to in the argument; and it is not possible to refer to higher names. A short passage from each will be sufficient. Lord Coke, in his first Institute (b), says, "Here Littleton explaineth a man of no sound memory to be *non compos mentis*. Many times, as here it appeareth, the Latin word explaineth the true sense, and calleth him not *amens*, *demens*, *furiosus*, *lunaticus*, *fatuus*, *stultus*, or the like; for *non compos mentis* is most sure and legal."

This Latin term, *non compos mentis*, pretty exactly corresponds with the terms in English, "not of sound mind," or "of unsound mind."

It was said that "partial insanity" was unknown to the law: the observation could only have arisen from mistaking the sense in which the Court used that term. It was not meant that a person could be partially insane and sane at the same moment of time: to

(a) Willis on Mental Derangement, p. 151.

(b) Lib. 3. s. 405. p. 246.

be sane, the mind must be perfectly sound; otherwise it is unsound. All that was meant was, that the delusion may exist only on one or more particular subjects. In that sense the very same term is used by no less an authority than Lord Hale, who says, "There is a partial insanity of mind, and a total insanity. The former is either in respect to things *quoad hoc vel illud insanire*: some persons, that have a competent use of reason in respect of some subjects, are yet under a particular *dementia* in respect of some particular discourses, subjects, or applications: or else it is partial in respect of degrees; and this is the condition of very many, especially melancholy persons, who, for the most part, discover their defect in excessive fears and griefs, and yet are not wholly destitute of the use of reason; and this partial insanity seems not to excuse them in the committing of any offence for its matter capital; for, doubtless, most persons, that are felons of themselves, and others, are under a degree of partial insanity, when they commit these offences. It is very difficult to define the invisible line that divides perfect and partial insanity; but it must rest upon circumstances duly to be weighed and considered both by judge and jury, lest on the one side there be a kind of inhumanity towards the defects of human nature; or, on the other side, too great an indulgence given to great crimes." (a)

The law, then, does recognise partial insanity in the sense already stated; and, in civil cases, this partial insanity, if existing at the time the act is done; if there be no clear lucid interval, invalidates the act, though not directly connected with the act

(a) 1 Hale's Pleas of the Crown, c. 4. s. 2.

itself; but, in criminal acts, it does not excuse from responsibility, unless the insanity is proved to be the very cause of the act. The rule, as I apprehend was correctly laid down in Hadfield's case:—"There is a wide distinction between civil and criminal cases. If, in the former, a man appears upon the evidence to be *non compos mentis*, the law avoids his act, though it cannot be traced or connected with the morbid imagination which constitutes his disease, and which may be extremely partial in its influence upon conduct; but to deliver a man from responsibility for crimes, above all, for crimes of great atrocity and wickedness, I am by no means prepared to apply this rule, however well established when property only is concerned."

"In all the cases which have filled Westminster Hall with the most complicated considerations, the lunatics, and other insane persons, who have been the subjects of them, have not only had memory, have not only had the most perfect knowledge and recollection of all the relations they stood in towards others, and of the acts and circumstances of their lives, but have, in general, been remarkable for subtlety and acuteness. Defects in their reasonings have seldom been traceable—the disease consisting in the delusive sources of thought; all their deductions, within the scope of the malady, being founded upon the immoveable assumption of matters as realities, either without any foundation whatsoever, or so distorted and disfigured by fancy, as to be almost nearly the same thing as their creation."—"Delusion, therefore, where there is no frenzy or raving madness, is the true character of insanity."—"In civil cases, as I



have already said, the law avoids every act of the lunatic during the period of the lunacy; although the delusion may be extremely circumscribed; although the mind may be quite sound in all that is not within the shades of the very partial eclipse; and although the act to be avoided can in no way be connected with the influence of the insanity: but to deliver a lunatic from responsibility to criminal justice, above all, in a case of such atrocity as the present, the relation between the disease and the act should be apparent.” (a)

The question, however, as to the distinction between civil and criminal cases does not arise in the present cause.

Extraordinary instances of insanity, on particular subjects, with apparent general sanity have occurred; and they are not immaterial in the investigation of the present question. Two instances were mentioned in the case of Hadfield. One of them I have also accidentally heard stated by a person who now fills a high judicial station, and who was, I think, present when it took place.—A person indicted his brother for having confined him as a lunatic. The prosecutor was himself examined, and stood a very long cross-examination by the very able counsel, Mr. Erskine, who, not being furnished with the clue, could extort no symptom of insanity. At length the medical person who had attended him furnished the clue, and his disorder immediately appeared, he said “I am the Christ.”—Wood’s case, before Lord Mansfield, and related upon his authority, is still more extraordinary. Wood twice indicted Dr.

(a) Vid: Lord Erskine’s speech, when at the bar, on the trial of James Hadfield. Howell’s State Trials, vol. 27. p. 1311. et seq.

Monro for false imprisonment in a madhouse. On the first trial, though not till after a long cross-examination without success, yet, on the clue being furnished by Dr. Battie, his insanity became apparent. The subject of the delusion was corresponding with a princess in cherry juice. Wood again indicted Dr. Monro, knowing that he had lost his former cause by speaking of the princess: "and such," said Lord Mansfield, "is the extraordinary subtlety and cunning of madmen, that when he was cross-examined on the trial in London, as he had successfully been before, in order to expose his madness, all the ingenuity of the bar, and all the authority of the Court, could not make him say a single syllable upon that topic, which had put an end to the indictment before; although he still had the same indelible impression upon his mind, as he signified to those who were near him; but, conscious that the delusion had occasioned his defeat at Westminster, he obstinately persisted in holding it back." (a) This certainly is a very extraordinary instance of that power of self-restriction and cunning in madmen, which is one of the unaccountable features that sometimes attend cases of this sort.

These instances, then, sufficiently prove three points:

First, That persons may be insane on particular subjects, or *quoad hoc*:

Second, That apparent sanity, on some subjects, is no proof of the non-existence of insanity:

(a) Howell's State Trials, vol. 27. p. 1316. *Note*.—This evidence at Westminster was then proved against him by the short-hand writer.

And, third, That insane persons have great cunning and great powers of restriction upon occasion.

The case of Greenwood which was mentioned in the argument, though differing materially from the present in its circumstances, was still a recognition of the principle of “insanity *quoad hoc*,” or “partial insanity.” (a) The case of Heath and Watts, in the Prerogative Court, in 1798, in which I was of counsel, has not been mentioned;—that was also a case going upon the same principle, and in which the will was actually set aside. In that cause there was general sanity so far as having the management of himself, and of his affairs; yet, twenty years before the will was made, he had taken an insane antipathy to his mother and brother, and the will was set aside on that ground. But both those cases differ from the present in this material circumstance, that manifest insanity, at a time previous to the testamentary act, was fully established, and the dislike was taken during that insanity. The question, therefore, in those cases, was, whether a perfect recovery had taken place, or whether delusion *quoad hoc* still remained. Here the question is, whether delusion ever existed at all till long after the will was made; which is the peculiar feature that distinguishes the present case from those cited, and so far creates its novelty.

These are the principles upon which, after the fullest consideration, I must decide this case: by them the facts must be brought to the test; for I have stated that—

(a) Greenwood v. Greenwood, Prerog. 1791. The proceedings in this cause concluded in a compromise. The case is noticed in the Attorney-General v. Parnter, 3 Bro. C. C. 444.; and in White v. Wilson, 13 Ves. jun. 89.

First, Actual insanity must be proved in order to vitiate the will; caprice and injustice are insufficient:

Secondly, Insanity is "deluded imagination," the substitution of fancies for realities:

And, thirdly, This insanity must exist at the time of doing the act.

Under these considerations I now proceed to examine the evidence. (*a*)

There are some circumstances which bear so little upon the true point, that they may be disposed of in the first instance; and it is desirable to do so, as briefly as possible, because the evidence necessary to be examined is very voluminous. For example:—The conduct of the parties after the death of the deceased is of slight bearing: whether they considered him sane, or insane, and the will valid, or invalid, raises an inference, but of little consideration, in a question where there is so much direct and more important evidence. Again, what passed at taking the inquisition is of little weight: on the one hand, the deceased was found an actual lunatic from January 1821, and was afterwards under the care of a keeper; on the other hand, he had just before that time a paralytic attack. The finding of the inquisition, therefore, of itself reflects back no great light upon his condition, when he made this will in 1818, near three years before.

Again, the verdict obtained against the executor is of little weight; the sanity of the testator was not put in issue; it was a verdict by default. It proves one thing, but no further; it proves, that

(*a*) The evidence and pleas were, generally, much condensed in the judgment; and are printed in the same compressed form.

Mrs. Dew attempted and invited an investigation before a court of law and a jury; there to try whether the deceased was sane, or insane; which invitation the other party declined to accept, even at the expense of 300*l.* costs. But it furnishes no proof or inference what the decision of the jury would have been in respect to the sanity of the testator.

Again, there is a large mass of evidence introduced properly, and, certainly, of considerable weight, but which does not require to be stated, nor examined in detail; namely, evidence to show that the deceased, in the ordinary transactions of life, conducted himself and his affairs rationally; was a sensible clever man; amassed a considerable fortune by his profession; took good care of his property; and that several of his friends and acquaintance, some of them medical persons, never considered, or even suspected, that he was deranged in his mind. All this is fully established, and it strengthens the presumption of sanity, and requires that the proof of derangement should be very forcible and stringent; but it is not conclusive, nor is it even conflicting evidence. All this may be true, and yet delusion on particular subjects, and showing itself on particular occasions, might exist. It is, therefore, not necessary to discuss this part of the evidence with the same minuteness which might be required, in order to compare it with conflicting evidence, yet the parties, supporting the will, are entitled to the benefit of it, and shall have its full force, in my decision.

Here are a great number of exhibits—letters written by the deceased, and letters written by the daughter: I have given to the whole of them the most attentive consideration; but I do not think it essential to

remark on them at much length, nor as a separate branch of evidence. They may be forcibly written—the reasoning in them may be powerful—but insane persons will reason forcibly and powerfully. The point to be enquired into is; whether the premises referred to in them are true or false—whether they are realities or fancies?

It will be important, then, only to recur to those passages in the letters connected with the facts in proof, and to which they appear to relate: if the facts bear out the letters, they will furnish strong proofs of sanity; if the letters relate to mere fancies, they will be strong proofs of delusion.

Besides the general disposition of the will, which is so unfavourable to the daughter, there are two clauses in it material to be kept in my view, and to accompany me in the consideration of the evidence: they are the reasons of the legacies to Mr. Goff and Miss Iley; and are as follows—“I give and bequeath unto Daniel Goff, of Newington, in the county of Middlesex, the sum of——(the amount is left in blank), as a token of my esteem for his virtue and integrity fully evidenced in endeavouring to promote the same good in conjunction with me towards my daughter, although he failed.” This is unintelligible without reference to the following clause, which clearly ought to have preceded it, as Mr. Bramley explains in his evidence—“and I make this bequest in her (Miss Iley’s) favour, in consideration of her good and faithful endeavours to assist my humble efforts in training up my daughter to habits of honest industry and frugality, and in affording her every advantage to acquire a sound knowledge of herself, and receive a good moral and religious education,

after she had thrice revolted and flung herself from my care and protection, and refused to adopt a line of conduct conformable to my domestic arrangements." These "revolts, this flinging herself from his protection, and not conforming to his domestic arrangements," occur in all the testamentary instruments of 1816, 1817, and 1818, and were present to his mind in making this will. There is no allusion to any other misconduct, either in the will itself, or in the other scripts. It becomes material, then, more especially to examine the evidence with reference to these particular facts, and to the periods when they took place.

Keeping these observations in view, and conceiving the main though not the only object of enquiry to be the cause and grounds of his impressions and feelings respecting his daughter, for that is the principal delusion imputed; and considering, whether those impressions were founded on realities accounting for his acts of severity, or were the offspring of a disordered mind; and whether his conduct towards his daughter was accompanied by any other circumstances tending to show insanity, I am led to the investigation of the evidence, and I intend examining it —

First, As applied to the general character of the deceased :

Secondly, As applied to the general character and conduct, and the imputed mis-conduct of the daughter :

Thirdly, As applied to the impressions of the deceased respecting his daughter, and his treatment of her — taking notice in passing of some other parts of his conduct.

The deceased had, at the time of his death, attained the age of seventy-two years, having for several years practised medical electricity, by which he amassed a considerable fortune, namely, from 30,000*l.* to 40,000*l.*; the probate has been sworn under 40,000*l.* His earlier history is involved in some obscurity; but, as stated by him to his friend Paternoster, he was originally apprenticed to an apothecary in Yorkshire, where he probably first acquired a turn for other medical pursuits. He quitted the country and came to London "to seek his fortune," as Paternoster terms it. When the witness first knew him, the deceased was a clerk in the Ordnance office. About the year 1774, he married Mary Simpson, waiting-maid to the Honourable Miss Clive, in whose service she continued notwithstanding her marriage, and there the deceased occasionally visited her. By this, his first wife, he had two children—the first still-born—the other a daughter, the party in this cause, who was born about the month of November 1788. Soon after her birth the mother died. It was in that year that Paternoster, himself also a surgeon, became intimately acquainted with the deceased, by meeting him at the house of Mr. Birch, who was surgeon to St. Thomas' hospital, and a celebrated medical electrician. There the deceased imbibed a fondness for electricity; he then became a student and attended lectures at St. Thomas' hospital, and acquired sufficient knowledge of the profession to undergo his examination, and to be admitted regularly as a surgeon. He seems to have practised for a short time as a man-midwife, but his great pursuit was medical electricity, which he followed at different places—for some time



in Bishopsgate-street, but for several years, and finally, in Hart-street, Bloomsbury, where he died in the month of November 1821, as already mentioned. At his last place he was in great repute, and was attended by some persons of high station in society, though in the latter part of his life his practice had very much decreased. In the year 1814 he married a second wife, Miss Susan Terry, who died in the year 1816; and he married, in the year 1818, a third wife, Miss Clark, who survived him, and has an annuity of 400*l.* under his will, and is an executrix. — This is briefly the history of the person, on the validity of whose will the Court is to decide in this cause.

His character is thus described by the supporters of the will in the second article of their plea: they allege him to be a man “of irritable and violent temper — of great pride and conceit — very precise in all domestic arrangements — very impatient of contradiction — entertaining high notions of parental authority — rigid notions of the total and absolute depravity of human nature, of the necessity of sensible conversion, and of the necessity or expediency of confessing to other persons the most secret thoughts of the heart.” The object of introducing this character in plea by the supporters of the will, is to account for the deceased’s treatment of his daughter. Many or most of the witnesses concur in these general traits of his disposition: some, however, were ignorant of the full extent of these traits; others speak of some of them — his irritability and violence, for example, — as existing to a still more immoderate degree than pleaded. — Mrs. Desormeaux is a witness of the former class; she was very intimate with the deceased up to the year 1800:

their intercourse was then suspended, but she renewed her acquaintance with him in the year 1814. She is much relied upon as negating the existence of any insanity in the deceased; she seems, however, to be a witness not aware of all the peculiarities of his character, and also to have been one of the few persons who had some influence and controul over him. In support of this view of her evidence it may be proper to state some few passages in it. She says, “the deceased was irritable — was exceedingly self-willed — and impatient of contradiction; had his full share of pride and conceit — yet this deponent never knew an instance in which he would not yield to the deponent’s remonstrances and arguments when they opposed his own opinion respecting female education.” As, then, the subject on which the deceased consulted her, was the daughter’s education, the time she is speaking of must have been before the interruption of their friendship in the year 1800: it could not be after the renewal of their intercourse in the year 1814, for then the daughter was twenty-six years of age, — “but he used to say he did not know how it was, but he could bear the deponent to reprove him and say things to him which he would receive from no one else.” — She, therefore, was a person who had considerable controul over him; to her also he would check and restrain some of his opinions, for she was unacquainted with some parts of his character: for example, she says, “he was of no religious persuasion but the Church of England — he did believe that human nature is totally and absolutely depraved — that an entire change of heart must take place — and that of this change or conversion a man must be sensible;”

but of his notions, on the subject of the confession of the secret thoughts of the heart, she knows nothing.”

Without stopping to enquire whether the tenets of this witness, and of the deceased, are directly conformable to the Church of England — it is clear, that even to her, who, to a certain extent, seems to have been his religious guide, he had never disclosed his notions of that which is put forward in plea, as having been a part of his creed — “the necessity of the confession of the secret thoughts of the heart to other persons;” and this is not only put forward in plea, but will be found to have been particularly required by the deceased from his daughter: she says, “she has seen the deceased irritable, but certainly never in a violent passion; she never heard him swear:” — if then the deceased should be proved to be subject to very violent passion; and Clarke’s own witness, Charsley, describes the deceased in these terms, “he was a man of amazingly violent temper and disposition;” and various parts of the evidence confirm the truth of that description: — if, again, he used to swear, and to swear without restraint before others: — this witness did not know the whole of his excesses in these respects, any more than the whole of his religious feelings; he could command himself before her, and appear to submit to her contradiction and opinion. The same observations apply to Paternoster; for though he was an intimate friend, and one whose evidence to general sanity, as a medical man, carries great weight, and is deserving of much attention, yet he was not informed of all the deceased’s extravagancies: — he did not know any of his religious principles, and he also seems to have had some influence and controul over him; and some-

times to have contradicted, controverted, and even ridiculed his opinions. “ Deponent never suspected the deceased of being a Methodist; he may have talked to others on religious subjects, and he has several times done so, or at least attempted it with this deponent, but he found it would not take, and so he left it off: he never called the deceased a Methodist; but what he and Mr. Birch called him was — Man-midwife to the Board of Ordnance — on account of his acting as accoucheur, while a clerk of that establishment.” Again, “ the deceased and deponent entirely disagreed as to his mode of behaviour towards his daughter, and so this deponent told him over and over again” — not fearing, therefore, to oppose his most favourite topics. — The obvious consequence would be, that the deceased would not disclose and express to him, with the same freedom, those opinions and facts which he is proved to have stated without reserve to some others. To the fifth interrogatory, he says, “ the deceased did not show great irritability of temper, nor on many trifling occasions put himself into violent passions: respondent never heard him swear — he was a man who could govern himself and restrain his temper.” — To the twelfth, “ he never heard the deceased threaten to beat and flog his daughter — he does not believe he ever did so — further, respondent should think, from what he knew of the deceased, however severe he may have been, he never could have gone such a length as to act in the manner interrogate,” viz. to tie her to the bed-post and flog her. From what will appear, in other parts of the evidence, of the deceased’s own declarations on this subject, as a matter of boast, it is clear he must have ab-

stained only through fear and cunning, from making similar declarations to Paternoster and Mrs. Desormeaux.

To the additional interrogatory — “he believes the discontinuance of their intimacy may have been furthered by the deceased’s taking offence at respondent; respondent used to laugh at his practice — he was fond of boasting, and respondent ridiculed him, and this made him angry.”

Their intimacy ceased about the year 1812.—These parts of Paternoster’s testimony show that he, like Mrs. Desormeaux, did not see the full extent of his temper and opinions. This arose from the deceased’s finding that he resisted his notions, and controverted his fancies.—Such evidence of character, from the two witnesses principally relied on, goes no great length to establish either sanity or insanity — because it is consistent with either.—His character may account for eccentricity — for some degree of harshness — for opinions in some degree extraordinary or absurd: but, on the other hand, this sort of irritable and violent temperament is not unlikely to terminate in derangement, or even to accompany it, if already existing.

Having thus examined the general character of the deceased, it may be proper now to advance more closely to the particular facts on which the judgment of the Court must more immediately be formed; and to examine the second head proposed, applying to the character of the daughter.

That the deceased exercised an immoderate degree of severity towards his daughter is not denied; but it is represented that this severity is accounted for, though not quite justified, by acts of misconduct on her part, especially when coupled with the character

and temper of the deceased ;—while on behalf of the daughter it is represented that she was a most amiable and virtuous person, and that the acts of cruelty of the deceased were so extreme towards such a daughter as to be unaccountable, except on the supposition of actual derangement of mind.

It must, then, be apparent that it is indispensable to inquire into the facts upon both these representations with considerable exactness, as much depends upon their relative degree:—if the circumstance to account be slight, and the treatment founded thereon extreme, it has a tendency to show insanity.—In insane delusions there is, generally, some slight circumstance of reality in which it originates ; over this slight circumstance the mind broods till it grows actually morbid ; and that which, originally and in reality, was trifling, becomes so distorted and magnified by diseased imagination, as to produce perfect delusion. To illustrate what I mean, by this insane exaggeration :—if a person sees a mole-hill, and insists upon it that it is a mountain— if he finds a stick lying across his path, and, instead of stepping over it, fancies it an impassable barrier, and turns back—it is as much delusion as if there were neither mole-hill nor stick actually within his view.—To account for the conduct, then, there must be a cause, at least so far adequate to the effect as to be consistent with rational belief free from delusion.

The daughter was born at Lady Clive's house in November 1788. Mary Wellings, a witness examined, lived in the family and was the child's god-mother, and had the care of her till she was about four years of age—she describes her as a “ lovely child, and of a most amiable disposition.” Phœbe

Wall, also a servant in Lady Clive's family, speaking to the same period, says — "she was one of the most engaging, interesting children she had ever seen — and of a most amiable disposition : every one in the family was fond of her." This description applying to so early a period, has, of course, a very slight bearing upon her general character and conduct. When she is rather more than four years of age she is placed at school, at Worcester, with Mrs. Gwyllym, sister-in-law to Mrs. Wellings. — Mrs. Gwyllym says, "Charlotte Stott was very young, but there was every indication of her having a charming temper, and a good understanding ; and everybody loved her." The witness kept the school only about two years, and this little girl continued with her successors about two years more ; but Mrs. Gwyllym's daughter, Mrs. Byng, a witness, was at the school for the whole of the time, and can, therefore, speak to the four years during which the child remained at Worcester. — "She was very amiable ; her disposition exceedingly affectionate : deponent was much attached to her, and felt great regret at her leaving the school. — She was generally and much beloved."

This then is the character of the daughter during her early life, and until she is about eight or nine years of age, when the father takes her home to his own house. — After this period, and through life up to the time that the deceased made the several wills to her prejudice, the same description of her is continued by persons who had the fullest opportunity of forming their opinion — and whatever may be the judgment of the Court upon the validity of this will, Mrs. Dew has some claim, as matter of consolation

for her past sufferings, and in order to remove the imputations made against her in some parts of the present proceedings, to have the evidence publicly stated in support of her character and conduct: but further—her real character and conduct are also essentially important in forming a judgment upon the sanity of the deceased. For if she, in reality was, or nearly was, what the deceased asserted and believed her to be, there would be no delusion.

The first witness, who had an opportunity of seeing her after she was taken home, was Mr. Goff.—Goff had long been intimate with the deceased; he knew him at the Ordnance office, and kept up the acquaintance, though with some interruptions, (which happen to the deceased in his intercourse with most of his friends,) until subsequent to the date of this will. There is part of his deposition more properly, perhaps, belonging to the conduct of the deceased, than to the character of the daughter, to which yet it may be material to refer in this place. He says:

“From about the time she, the daughter, came up to London, when she was about seven years of age; it appeared as if the deceased had taken some most violent prejudice against her, and from that time forwards, he so spoke of her, and acted towards her, as a man who was without any natural affection; he complained of her that she had no love to him as her father, that she was undutiful, stubborn, idle, rebellious, depraved. He has heard him speak of her extreme depravity, and represent her in fact, as an abandoned profligate, exclaiming how wretched he was to have such a daughter, vile, undutiful, irreclaimable, and the like. The deceased did so before



the time when he had, or pretended to have, any thing specific to charge against her.”

I state this here, not so much with reference to any perversion of mind, as to show, what prejudices the deceased himself was exciting against the child in the minds of those persons who, at that time, gave him credit for his assertions, and were not aware of any delusion. It will be desirable to recollect this, when I come to consider the evidence of those witnesses who are brought forward to give the daughter an unfavourable character. Now Mr. Goff was a person with whom the daughter lived for about twenty months—from the year 1802 or 1803, to 1804 or 1805; and he saw her at various periods of her life. He thus describes her :

“Charlotte Mary Dew did, upon all occasions, conduct herself towards her father with great respect and submission; she showed an eager desire to do every thing in her power to soften, to win, and to please him; she conducted herself, in all that the deponent ever saw, with strict decorum and propriety.” Every word of this is important, when I come to look at the deceased’s declarations, and at passages in his letters. “The deponent has had several children, all are dead; but had he been favoured to have reared a daughter, he could not have desired more, than that she should have been what Mrs. Dew was. Her general temper was very good, her principles, habits, and conduct strictly moral and virtuous.”—This is his description, notwithstanding all the prejudices which the deceased had endeavoured to excite in his mind.

The same observation applies to Mrs. Ottley—who indeed speaks to an earlier period than that

at which the daughter went to reside at Mr. Goff's house, though, possibly, not to so early a period as when the deceased first spoke of her to that witness. She fixes the time somewhere towards the year 1800—probably the deceased spoke of her sooner, and before she left Mrs. Rivers' school at which she was first placed. Mrs. Ottley deposes to the third article: “The deponent's knowledge of Charlotte Dew began some weeks after deponent first attended her father, when she was about ten or twelve years of age, she was then at her father's house, and residing there. His description of her, before the deponent knew her, appeared very unreasonable, extravagant, and improbable, as applied to any child, and the deponent never discovered any trace of it in her; he represented her as disobedient, having a spirit of depravity, deceitful, inattentive to her studies, violent and obstinate in her temper, given to lying, with much more to her prejudice. The deponent took her daughter to him daily, and this was the subject of his conversation. He described himself as an afflicted parent, having but one child, and being so unfortunate: this was the burthen of his conversation continually, before the deponent had seen her.” As these conversations were before Mrs. Ottley had seen her, it was probably before she had left Mrs. Rivers' school—which is not altogether immaterial. Mrs. Ottley's means of knowing her are stated in the further part of this article, and her opinion of her character in the next article:

“She found Mrs. Dew very clever, obliging, and amiable; her conduct was uniformly correct; she never had, or knew, or heard of a complaint against her, but from her unfortunate father, and his com-

plaints, as far as the deponent had the means of judging, were erroneous, and without foundation.”

Another witness, who had great opportunities of forming a correct estimate of the daughter, and who at first laboured under the same prepossessions against her, is a respectable quaker lady, Mrs. Duplay: she first became acquainted with the deceased at the house of another quaker lady, Mrs. Newbery, at Taplow, in the year 1803; and with the daughter in the year 1805 or 1806.—She deposes to the third article:

“Very soon after the affirmant’s acquaintance with Ely Stott began, she heard him speak of himself as being an afflicted parent from the depravity of a child; that was the amount of what he said: his complaints were not specific, but were strong and repeated; though the hilarity of his general behaviour, as being inconsistent with the extent of affliction he represented himself to suffer, was the subject of her observation; as was also the abruptness and indelicacy of his speaking to her on such a subject; but, at that time, not at all doubting the truth of his representations. She afterwards, in the month of January 1805, became his patient; from that time and during the whole period of her acquaintance with him, his favourite topic of conversation was, the character and conduct of his daughter, he harped upon it; it appeared to be the constant burthen of his mind; if any other topic of conversation were introduced, and many interesting subjects were started, whatever it might be, whether literary, religious, or any other, it proved to be but the introduction of the character and conduct of his daughter. He spoke of her as being corrupt in prin-

ciple, and the property of some satanic power that withheld her from obedience to her father.”

I shall not now state more of the behaviour of the deceased; observing only at present that it appears here, and will appear throughout, that his mind was brooding over the character and conduct of his daughter:—the cause and the effect of this will be for my consideration, when I come to examine whether he was labouring under delusion of mind.

In spite, however, of these opinions so expressed by the father, and which Mrs. Duplay at the time believed, it will be proper to see her own judgment upon the character of Miss Stott. She goes on to say to the fourth article: “The principal opportunity which she had of judging of the character and conduct of Charlotte Dew, was during a visit which she made to Mrs. Newbery, at Taplow, in the year 1805 or 1806; it continued for about three or four months; and she watched her closely in order to ascertain as well as she could what her real character was. During her residence there she formed a favourable opinion of her, which she had no reason afterwards to alter; she conducted herself with perfect decorum and propriety on all occasions, she evinced a gentleness and desire to please, and professed a very strong anxiety to conform to her father’s wishes, if she had but known them; the sincerity of which desire the affirmant had, at no time, reason to doubt: the affirmant saw nothing that indicated that depravity and want of principle, of which the father had spoken, but quite the contrary; her disposition was amiable, and her conduct was uniformly correct: afterwards in London she had frequent opportunities of witnessing her conduct at

her father's house, and at Miss Terry's, and in various walks which she took with her; and she had no reason to believe that the favourable opinion she originally formed of her was incorrect. She never saw a single instance of perverseness in her towards her father, though she seemed, in his presence, to be so subdued with fear, that she did not dare to speak, or move, or even look, in his presence." I shall presently see what cause was given for these feelings of fear and terror.

Though the real character of the daughter is a material part of the case, and it is proper to go through its history; yet it may not be necessary to state at present the evidence of the servants in detail; but there were several who lived in the family—Frances Ward, Hannah Wright, Martha Wright, Silas Barnard, Elizabeth Nicholson; and who consequently had much opportunity of seeing the conduct both of the deceased and of the daughter, and the "domestic arrangements." It is impossible to speak in higher terms than they all speak of her conduct—her doing every thing to endeavour to please him and conform to his wishes—no appearance of disobedience—whether from fear, or from sense of duty, still she submitted to every thing with patience and without a murmur:—her deportment was modest and correct; and she was strictly moral and religious.—This goes down to the time when she quitted her father's house finally.

There are other persons whose evidence takes up the subsequent history of the daughter. In the year 1808 or 1809, the daughter, in consequence of her sufferings, and the state of her health, left her father's house, being then about 20 years

of age. Under the sanction of Sir Thomas and Lady Barnard, and of the Bishop of Durham, she was placed at the school of Miss Brent, to qualify her to get her own livelihood as a governess. Miss Brent has been examined in this cause, and says, "Miss Stott was placed at her school in September 1808; she received her from Sir Thomas and Lady Barnard; she remained twelve months, during which time she was under the deponent's constant eye and care, more immediately and constantly than most of the young ladies, as she was a parlour boarder, and passed her vacation with the deponent: her conduct was perfectly good; she found her very amiable, and of an affectionate disposition; she always conducted herself with the most perfect decorum and propriety; she could not be better in any respect; the deponent never saw any thing amiss in her—never; the deponent cannot speak too highly of her; she deserves to receive, at the deponent's hands, the highest possible character: the deponent never saw her in the presence of her father, but as far as she could judge, there appeared in her a readiness to obey and oblige her father, at all times, and in all respects."

Miss Atkinson was the teacher at Miss Brent's school while Miss Stott remained there: they quitted it about the same time, and Miss Stott was afterwards placed with Miss Atkinson to complete her education as a governess. I do not state the interview which passed between the deceased and Miss Atkinson—but merely her evidence to the character of the daughter, of which she had such ample means of judging.—She says,

"Miss Stott was placed under her care, to learn

tuition; she remained with her for a few months, when a situation offering in Mr. Abbott's family, she went there: she was a mild, modest young woman, amiable and unassuming; every body admired and loved her but her father; her whole conduct was most correct, it was strictly and uniformly so; she was religiously disposed, strictly moral and virtuous; she was humble and submissive, just the reverse of all that her father described her to be. As far as the deponent could form an opinion, she was most anxious to fail in nothing that it was her duty to do, or that it could be hoped might conciliate her father and win his affection."

She then went as governess into the family of Mr. and Mrs. Abbott: the latter is now a widow and has been examined. Though the very circumstance that Miss Stott continued five years and a half in her family, is, of itself, a pretty strong testimony of Miss Stott's good conduct, it is not the whole. Mrs. Abbott, after describing how long she was in her family, proceeds—

"Miss Stott resided in the deponent's family, as governess, for five years and a half; during the whole period she conducted herself with great propriety; her habits were strictly moral and religious, and her whole conduct was such that the deponent and her husband treated her in all respects as if she had been one of their own children, and felt a strong affection for her. She quitted their family of her own accord, and under circumstances highly to her credit; the cause was an attachment which the deponent's eldest son had formed for her; she was several years older than him, and the deponent's husband was disposed to treat it as one of those boyish attachments which

would pass away, but Miss Stott considered that it was more advisable that she should not continue in the family; she left it therefore of her own accord; and went into the family of Mr. Dew, as governess, and continued there till her marriage with Mr. Dew's son; which marriage, she believes, took place with the approbation of the whole family."

This account is confirmed by Mr. Dew, the father. The admitted fact of his consent to the marriage of his son with Miss Stott, is a strong test of his good opinion of her. Two of his sons were desirous of marrying her—they were rivals, and that was the only difference that happened in the family respecting her. It has been suggested that Mr. Dew contrived to get her into his family with a view of marrying her to one of his sons in order to secure the deceased's fortune; but there is nothing in the case to warrant such an imputation; nor is it material to the true point in issue. The deceased, if he were insane, might suspect it; for persons deranged are always full of suspicion of plots and conspiracies, and we see in his letters he did suspect and impute this; but that is no proof of the fact. Indeed, after the declarations of the deceased to Mr. Dew respecting his daughter, and more especially after the quarrel and letters, Mr. Dew must have been nearly insane himself to have entertained any such design. Could he expect any other result than that the deceased would leave his fortune away from his daughter? The Clarks make it a part of their case in the interrogatories—that Mr. Dew declared to one of them, he did not expect the deceased would leave his daughter any thing; and Mr. Dew admits he may have made such a declaration, as he thought Mr. Stott would



have left all his property to religious societies; so that he did not marry his son to Miss Stott with a view to the deceased's fortune, unless, indeed, he conceived the deceased was so decidedly insane, that he could not make any will which should deprive the daughter of his fortune. — On this supposition, his conduct would be strong evidence against the sanity of the deceased, as far as his own opinion went.

There are other witnesses who speak to the character of the daughter in terms of approbation equally strong, and to a still later period — particularly the Rev. Mr. Bartlett and the Rev. Mr. Wilson. They both approached her under very unfavourable prepossessions, founded on the representations of the deceased — both saw her under very trying circumstances, but both arrived at the most favourable conclusions respecting her character; yet, as there will be occasion to examine their evidence relative to the deceased's state of mind, it may be unnecessary to refer to it at present. Mr. Meyrick, and some other persons, nearly twenty in the whole, concur in the description of the daughter already given.

Upon this part of the evidence then, it is hardly possible to figure stronger proof that the contents of the will, in regard to Mrs. Dew, have no foundation in truth and reality, and that the disposition is unjust and undeserved; but it by no means follows that it was founded in delusion of mind; it might arise from other causes, and from the misrepresentation of other persons; and circumstances in her conduct may be offered to account for it.

The supporters of the will have undertaken to show that the daughter had so far misconducted herself as to explain rationally, though not fully to

justify, the measures of the deceased; and it has been already said, that unless the Court is satisfied of the mental derangement of the deceased at the time of making this will, it is valid in law — however mistaken or unjust. It is necessary, then, to examine the facts relied upon as accounting for the deceased's impressions. — In proof of the facts, the deceased's own letters are of no avail; for if the facts have their sole origin in his morbid fancy, the assertions in his letters serve only as evidence of delusion of mind. There are indeed cases upon a mere question of a testator's intention, and when no derangement is suspected, in which the existence, and not the truth, of an impression, is the material point. But where the case set up is, not that the intention did not exist, but that the belief, on which the intention is founded, grew out of mere delusion of mind, and that the erroneous impression could be removed by no proof or argument; it becomes essential to ascertain what foundation in truth the belief had, and what means were used, without effect, to remove that belief, which is shown to be founded in error.

Stripped of the letters, the allegation sets up only two instances of misconduct. One instance is, her dismissal in the year 1799 from the school of Mrs. Rivers "for misconduct;" but it is not specified what that misconduct was. The other instance is a similar dismissal from Mrs. English's school, in the year 1802, for language and practices more specifically described and characterised in the plea. The witnesses produced in proof of the former charge are, Mrs. Desormeaux, Mrs. Rivers, and Miss Desormeaux. Mrs. Desormeaux is a witness much relied upon; but it has been already observed, that

she is a person who was not acquainted with the whole of Mr. Stott's character, and towards whom he was under some degree of restraint. She believed him to be not only a very clever man, and a very religious man, but a perfectly sane man. She, therefore, gave full credit to all his representations, and at the time of giving her deposition, her opinion had not been altered. Her judgment, therefore, of Miss Stott must, in a very considerable degree, have been founded on the account given of her by the father, for she did not suspect any delusion in his mind. Approaching her evidence then under these considerations, as I think I must, in order to arrive at the true estimate of it — what does she state? — “That Miss Stott was possessed of great abilities; she was a clever girl, but indisposed to exert herself; she was of a perverse and obstinate disposition, and, occasionally, would be sullen, but deponent cannot say ‘very perverse,’ &c. as articulate; deponent has had a great deal to do with the tempers of children, and therefore can make allowances, but there was certainly rather more of those vices and of idle habits, and an unwillingness to submit to restraint in Miss Stott, than in some other children; perhaps she did not show it so much in deponent's house, for her family were very regular in all their habits, but she was disposed to show a disobedience to the directions of those under whose care and controul she was placed, and particularly of her father; but perhaps that was because he seemed to expect so much more of her than she was at all equal to; he wished her to be more than female, a perfect pattern of all excellence and all accomplishment; she certainly showed herself very averse to his wishes in many things, and

this irritated and vexed him, and he has expressed to deponent the disappointment and grief which he felt, that after all the affection, care, and expense, which he had lavished upon her, she should manifest such an aversion, such a determined aversion, to all application." — "It was at her recommendation that the deceased placed his daughter at the boarding-school of Mrs. Rivers and Miss Rutt at Hackney. The deceased, very frequently, visited his daughter at the school, he was ever manifesting the greatest solicitude and anxiety for her improvement and welfare: of the disinclination to study, and obstinacy of disposition, manifested by Miss Stott, whilst at the said school, she can only speak from the reports of the governesses; she could see nothing of it herself, but she saith, that in the year 1799, Miss Stott, having been at the school about two years, was dismissed therefrom in consequence of some very blameable conduct which Mrs. Rivers communicated to deponent; it was misconduct of a private nature, but such as would have been injurious to the school had she remained, and fully, therefore, justified her dismissal. The deceased was much distressed, — begged Mrs. Rivers to let her remain at the school, and requested deponent to intercede — and offered her 100*l.* a year; but it was all to no purpose. Miss Stott left the school, and was taken home to reside with her father."

The utmost extent of this evidence is that in her opinion there was something of obstinacy and sullenness of disposition, of which she had very little opportunity of judging; for she admits that Miss Stott did not show it so much at the witness's house. Of her disinclination to study and of her obstinacy at school

the witness can only speak from the reports of others— which is no evidence. — Of the cause of her dismissal she can only speak from the information of Mrs. Rivers, which again is no evidence. — Mrs. Rivers has been examined, and must speak on oath for herself. Her account is, —

“It is now a long time since Miss Stott was under her care, and she had forty or fifty girls, but she does recollect that Miss Stott was of a perverse and obstinate disposition; when reproved, would be sullen; her abilities were good, but her habits were careless and idle, she cannot say extremely idle, as articulate; she was greatly averse to restraint, and deponent thinks, did exhibit considerable disobedience to the direction of her teachers, but most especially to those of her father; he was strict in his requirements, and she was strongly opposed to them. This conduct greatly irritated him. On the occasions of the deceased coming to see his daughter, he always expressed the greatest solicitude for her improvement and welfare, but she evinced as great a disinclination to study, and would display much sullenness and obstinacy.” How much this opinion arose from her own observation, and how much from the representations of the father is not quite clear. — “Deponent cannot exactly recollect what was the cause of Miss Stott’s removal from the school, but she thinks it must have been the wish of deponent and her sisters to remove her, because she recollects it was not the act of her father, who very much wished deponent to take her again, and offered her the sum of 100*l.* a year, if she would do so; — but deponent and her sisters objected; they had a good deal of trouble with her,

and therefore refused to receive her again." On the fifth interrogatory she says, "she was only in company with the deceased, when he came to visit his daughter, but that was frequently. — Miss Stott was about nine years old. Respondent thinks she does recollect the deceased's requiring his daughter to write to him very frequently, to let him know what progress she was making; he was very strict and very anxious she should make a rapid progress; he brought a rod to the school himself, and wished respondent to employ it as an instrument of correction on the said daughter; but respondent told him her regulations did not admit of such a mode of correction, and therefore the rod was locked up in a drawer, till the deceased was prevailed on to take it away; the deceased did threaten that he would come and punish his said daughter himself, he did come — but he never beat her, respondent would not have allowed it, and he never attempted to do so; on recollection she saith, deceased may, in a moment of haste, have hit his daughter a slap with his hand, but certainly nothing more."

Here, then, is a dismissal for some alleged fault; but the witness cannot even recollect of what nature it was; here is this father of warm and hasty temper, as she admits, who, according to Mrs. Desormeaux, wished his daughter to be more than female — expected her to be much more than she was at all equal to — a perfect pattern of all excellence and all accomplishments: he comes to the school, and that was "frequently," he requires his daughter to write to him "very frequently," to let him know what progress she was making — he was very strict — he once slapped her with his hand — he brings a rod

to the school, and desires Mrs. Rivers to use it, — she declines — he threatens to come and use it himself — the child is dismissed the school — Mrs. Rivers cannot recollect for what — deceased offers her 100*l.* a year to keep her — Mrs. Rivers refuses, even though Mrs. Desormeaux requests it. — What excuse she made to justify herself to Mrs. Desormeaux — what fault she then imputed, neither of them can tell. To my judgment the whole of this account, more especially when coupled with what I afterwards find in Mrs. English's deposition, has much more the appearance of a wish and determination on the part of Mrs. Rivers, on some pretence or other, to relieve herself from the troublesome visits of the father, than of serious misconduct on the part of the child. It has besides the appearance of extravagant notions tending towards derangement in Mr. Stott, rather than of any vice and depravity in this unfortunate daughter.

This view of the subject is in some degree also confirmed by the account given by the third witness, Miss Desormeaux, Miss Stott's school-fellow, just of the same age or a little older — her playmate; who, if Miss Stott had been guilty of any serious offence, must have heard something about it either at school or at her own home, and would most likely have remembered it. Her account however is this —

“ She has a distinct recollection of Miss Stott's being considered as a girl of clever abilities, more so than her school-fellows of the same age; but of her being sullen, perverse, obstinate, idle, or averse to restraint more so than young persons generally are, she cannot speak; she remembers being disappointed at not having her company one half-holiday, and

learning on enquiry, that she had been detained at school by her governess for telling untruths, but not for any of the idle or careless habits, as articulate."

Once, then, in the course of two years, she is detained on a half-holiday, on a charge of an untruth; but whether this charge was suggested by the father, who required letters, frequently, giving an account of herself; or whether there was any real deviation from truth, may be much doubted.

It does not seem to me that her removal from this school was either on account of general misconduct, or of any particular offence committed by her: it might mortify this proud father, and his high notions of parental authority—it might disappoint his extravagant ideas, that his daughter was to be more than woman—was to be the perfection of every thing that was clever and accomplished—it might account for increased harshness and severity when she was taken home; but it might also dwell upon his mind; and he might brood over it, and it might go on from what was now only strong disappointment of immoderate expectations and at length become morbid imagination; it might be the foundation and proximate cause of actual "delusion of mind"—for, as Mr. Locke again expresses it, "by long fixing the fancy on one sort of thoughts, incoherent ideas become cemented together so powerfully as to remain united."

The other charge of misconduct laid in the plea more specifically, and of a graver and grosser character, is disproved by the very witness produced to support it—Mrs. English. The deceased, having taken his daughter home from Mrs. Rivers' school, in the latter end of the year 1799, treated her in



the manner which will be presently stated. She made her escape to Mrs. Ottley, remained there about three months, and then was placed at Mrs. English's school at Hampstead, where Mrs. Ottley's daughters went as day scholars. There she continued till the year 1802, except for about six weeks, when she, and all the other pupils, went to their respective homes, on account of the scarlet fever breaking out:—after which she returned to school.

Mrs. English states, “that she kept a boarding-school at Hampstead: in 1800, Miss Stott, a girl between eleven and twelve years old, was placed there; she continued about two years. The deceased used to come and see her very frequently, as often as once a week or so; he used to examine her, or rather directed deponent to do so, who asked her several questions in the presence of the deceased; his anxiety on the subject of her improvement seemed very great; and he seemed to expect greater progress than was even reasonable or attainable:”—This is the same course of conduct as at Mrs. Rivers' school.

“Miss Stott was attacked with fever; she, and the rest of the school, went home. After an absence of six weeks, she returned. Deponent cannot, in conscience, depose to Miss Stott evincing a great disinclination to study, or a great sullenness and obstinacy of disposition as articulate; on the contrary, as far as she recollects, she was very willing to study, and not at all obstinate or sullen; to say she was absolutely faultless would certainly not be correct; but what her faults were, deponent cannot recollect, except in one little instance, of which she will now speak:—sometime in the year 1802, deponent re-

ceived an intimation, that Miss Stott had held some indelicate conversation with one or two of the other girls; deponent was exceedingly displeased with her for it, and wrote to her father, who was equally angry, and by deponent's desire, removed his daughter from the school; but deponent cannot say that such her desire for the removal of Miss Stott, was occasioned so much by the circumstance just adverted to, as by the general trouble that she received from the frequent visits of her father, for the purpose of examining and ascertaining her progress; deponent further saith, the terms made use of in the article are far too strong, the language was not libidinous; it was indelicate; and as to detecting her in any libidinous practices, deponent believes it is quite a mistake; she has no recollection whatever of any such circumstance."

Here, then again, this unfortunate girl is dismissed from school, not on account of any misconduct of her own sufficient to attach so disgraceful a stigma on her character, but she is sacrificed on account of the misconduct of the father himself. The same observations apply on this part of the case as on the former removal: it at least tends as much to explain subsequent unsoundness of mind, as to lay a ground for subsequent severities to the daughter. So far is the daughter's general conduct at this time from being likely to provoke the father to those severities, when he got her under his own immediate dominion, that it is exactly the reverse. This very witness produced by Mr. Clark, Mrs. English, who had her under her charge for nearly two years, upon an interrogatory, thus answers — "That Miss Stott did not evince any perverseness, obstinacy, or sullenness of disposition;

on the contrary she was of a mild temper, and amiable disposition : respondent never found her otherwise, and she was generally beloved by her schoolfellows and others.”—To another interrogatory she answers, in contradiction to the plea and the deceased’s impressions, “that Miss Stott did make considerable progress in her studies; not only as much as girls of her age usually do but considerably more.” Here, therefore, Clark’s own witness, the mistress of the school, negatives the “obstinacy,” “perverseness,” and “idleness;” and states, “that she made considerably more than common progress.” These two acts, the one in the year 1799, the other in the year 1802, are the only specific offences, even alleged, to account for the impressions and the treatment of the deceased in respect to his daughter, while, on the other hand, her disposition and conduct is proved, by the evidence already referred to, to have been, both at that period and subsequently, the very opposite of what he asserted.—These two circumstances, when connected with the deceased’s character of pride, irritability, and violence, are sufficient to have produced disappointment, harshness, and severity. But the enquiry must be, whether they account for his subsequent measures and declarations in such a way, as to render them consistent with soundness of mind; or whether, by brooding over them, his mind did not become distorted and actually deranged.

No other act of misconduct is imputed even in plea. The plea only avers in the 12th Article, “that by artful representations of the conduct of her father and palliations of her own misconduct, she succeeded in inducing Goff and many of the deceased’s friends to believe that she was treated with

unmerited severity;” — but Mrs. Desormeaux is the single witness that speaks to this point, and she can only depose from the information given her by the deceased. Of these artful representations, then, there is no other proof than the unfounded suspicions expressed in the deceased’s own letters, while the facts are the very reverse; she suppresses her complaints, and he publishes his own severities.

I shall now proceed to the evidence on the third branch proposed to be examined — The impressions of the deceased respecting his daughter — and his treatment of her — and his own opinion of his own conduct; noticing in passing some other parts of his character and actions.

In a case of so much importance the Court cannot with propriety avoid tracing, with some detail, the various transactions in which the deceased’s history has been brought under its consideration.

I have already stated that some of the witnesses who esteemed the deceased sane, were not aware of his whole conduct. They did not suspect derangement; but they furnish no actual proof of its non-existence — especially those persons in whose presence he imposed some restriction upon himself. — Even medical persons might not remark it, if their attention and practice had not been directed towards that particular disorder, — or if their observation with respect to the individual had not been specially awakened. If they merely discussed with him medical subjects, not connected with the particular string of delusion, I know not that they would be much more likely to discover the delusion, than others not engaged in the medical profession.

It is the facts spoken to by the witnesses that the

Court must examine, and rely upon, rather than their opinions: whether at the time they regarded and treated the deceased as insane, is not the question; though not entirely to be overlooked. The question is, whether the deceased was really insane?

The material part of the history commences before and at the very birth of this daughter. The deceased's behaviour towards his first wife was quite extraordinary — going to the utmost verge of eccentricity and extravagance — so much so, that if Phoebe Wall is correct, the impression then made in Lady Clive's family by his conduct, which she details, was, that he was deranged; and he was so spoken of. It may here be remarked that this witness was not so young as has been represented; she was born in the year 1770, and therefore was eighteen years of age at the birth of Mrs. Dew. — She says “that the very respectable house-steward of Lady Clive, Mr. Martin, always said that Mr. Stott was deranged and would die in a mad-house, and the deponent believed so too.” Without, then, recounting the circumstances in the previous treatment of his wife which led to this impression, yet such was the impression which his behaviour produced in the family at the time. But his deportment at the birth of the child is perfectly extravagant. — Phoebe Wall states, that “hearing that Mrs. Stott was in labour, and then that she was delivered, she went down to the cottage. As soon almost as she arrived, Mr. Stott brought down the infant quite naked; he was himself stained with a quantity of blood; he showed himself to them, and said, ‘I have done my part.’ It shocked the deponent, who was but a girl at the time, to see his conduct; and not her only, for the

others were shocked too. He boasted of what he had done, and talked and behaved in such a way, that they all considered him deranged. Not many days after the delivery she again went to see Mrs. Stott, and found her just put into bed again, after having been washed in cold water; the deponent did not see it done, but she saw the water and the cloths being then put away; Mrs. Stott told the deponent what had been done; she said Mr. Stott had had her out of bed, and washed her, and she said she was afraid she was injured; that she had intreated it might not be done, but to no purpose. On the deponent asking the nurse why she permitted it, the nurse said, (she remembers the words to this day,) ‘Lord, madam, I was so frightened at the man.’ Mrs. Stott complained soon afterwards that she felt chilled, and shiverings. — In a few days afterwards she died.”

Now, looking at these statements, and taking them to be true, it is difficult to consider this as far short of actual derangement. It so happens in this case, that the Court has seldom to rely on single witnesses or single facts; for many of the most extraordinary facts are spoken to and confirmed by a number of witnesses: even this fact, remote as it is, is corroborated by the admission of the deceased himself, that a report of such his extravagant behaviour existed at the time: for Clark’s own witness, Paternoster, says, “The deponent perfectly well recollects the circumstance of the deceased being accused, at the time of his wife’s death, of recommending her washing in cold water shortly after her confinement, and that it terminated fatally; but the deceased, who had heard the report, most positively contradicted it,

and said, the fault was her own, for that she would have her hair combed and dressed, and that the length of time which was occupied by that, exposed her to cold, which occasioned her death." — This, at least, proves that the charge is not a recent invention.

If even deranged, he might have possessed art and cunning enough to make an excuse for himself to Paternoster. He tells the same story to Mrs. Desormeaux; — but which story is true? which is most probable? That this strange man should do this strange act, in the manner deposed to by a person present, and with the circumstances she has detailed; or, that this mild, meek creature, for so the first wife is described, who stood in the utmost fear of her husband, should have sat up to have her hair dressed, and that neither he nor the nurse should have prevented it; and that she should have caught her death in this manner. The probability is in favour of Phœbe Wall's account, though it is not necessary to decide absolutely, or rely much on the fact. — There is, however, before, and at the birth of the child, something very nearly bordering upon insanity. What the character of those acts would be, if taken singly and detached, need not be considered; but they give a colour to, and receive a colour from, the subsequent history.

The next occurrence which I shall examine is his visit to the child when at school at Worcester. Mrs. Gwyllym thus relates it: — "The deponent saw the deceased only once, which was when the little girl had been with her nearly one year; he then called at her house. The deponent took the child by the hand, and led her to her father, saying, 'My dear, this is your father;' and was

about placing her little hand on his, but he had withdrawn his hand; and broke out in rather a violent manner, sufficiently so to frighten the deponent, saying, ‘I have quarrelled with the people at Oakley Park; they have presumed to say, that my child is supported by charity;’ the deponent made no answer; the child had run to her for shelter almost, — certainly from fear. He enquired, then, for what the deponent would maintain, clothe, and educate the child; would she for 20*l.* a year, he asked; the deponent laughed, and said, that if he pleased to write to her on the subject, she would answer his letter. He was there for but a few minutes; he said he was in a hurry; he was going home by the coach; and he left her. The child clung to the deponent the whole time; there was not the slightest evidence of affection for the child any more than if she had not been his. He walked up and down the room; there was an almost furious look about him; his manner was disturbed, and his conduct was altogether quite extraordinary; he took no notice of his child, and made no enquiries about her. The child was in all respects one of the most lovely and endearing children, in person, temper, and manner, that was ever seen, and his conduct, on that occasion, was quite inexplicable — on any other principle than that of his being of unsound mind; so it was, and is, to the deponent.”

Whether the circumstance of not noticing his daughter was the effect of original aversion and antipathy, — or whether his pride had been hurt, and his passions had been provoked by what had passed at Lady Clive’s, so that, under the dominion of these excitements, the yearnings of nature towards his child



could not soften him, is not very material ; but I think, that “original antipathy and hatred from her birth,” as laid in the plea, is not correctly the character of the case ; but that from the evidence it appears rather to be, originally, extravagant affection — extravagant expectations — extravagant disappointment — which, if the case is made out at all, either proceeded from, and accompanied, actual derangement, or finally produced it. In the instance just stated there are strong marks of something approaching towards insanity ; and his correspondence with Mrs. Gwyllym bears the same character. She says, “Some time after, she received a letter from the deceased, requiring from the deponent a description of the child, in person and manners. The deponent described her as being very healthy in body, and amiable in disposition, but afflicted at that time with chilblains. In the course of that letter, the deponent happened to use the word ‘gross,’ which apparently so offended him, that he wrote her a letter of some length, full of abuse ; the word ‘gross’ occurring in it several times, and it was evidently forced in ; but in that letter, also, he abused her without cause, and he told her in it, ‘that her conduct should be watched while the child remained under her care ;’ he sent to the child no message of love, or of any kind. This letter was, and is, in the deponent’s judgment, confirmatory of her belief, that the man’s mind was disordered.”

Whether the Court will go the whole length of concluding with the witness, that the deceased’s mind was at this time disordered, it is not necessary to state : but this extravagant offence and these

suspicious again bear strong marks of a tendency to distempered imagination and carry the Court some way in that direction.

It has been the more important to relate these early circumstances, because they occur long before that imputed misconduct in the daughter which is pleaded to account for his measures towards her.—Before the daughter is taken home, about the year 1797, the deceased is perpetually going to Mrs. Desormeaux to consult about his daughter's education : so far, therefore, his conduct does not look like antipathy and hatred ; but, even in this respect, he acts in that sort of extreme which usually belongs to persons bordering on derangement. His declarations to, and conversation with, Mr. Goff in regard to his daughter have been already recounted : and they seem to have passed before she went to school at Hackney ; if so, it marks delusion respecting her even at an earlier period than her going to Mrs. Rivers' school.

After her removal from Mrs. Rivers' school, in the year 1799, and before she is placed with Mrs. English, she is taken home ; and it is very material to see what happens there. The deceased's treatment of her is at that time shown by the evidence. Frances Ward, a maid-servant in the family, gives this account : “ She went to live with the deceased about the year 1800 ; Miss Stott was then a young girl of a very mild, meek disposition, very obedient and glad if she could do any thing that was likely to please her father ; she conducted herself with the greatest propriety, no child could behave better, or strive to please more than she did. About three or four months after she went into the service, one forenoon, her fellow-servant, Rachel, came down into the kitchen and asked for

some brine out of the pickle-tub, which the deponent gave her; she said, that the deceased had sent her for it, to rub his daughter's back, he having flogged her in the manner then described, which made the deponent shudder; but she believes it to be true, because she afterwards gathered up, under and round the bed-post of the bed, in which Miss Stott slept, in the garret, as much as she could hold in both her hands, of broken birch, as from a rod, with several pieces of broken wire." Upon this evidence, if unconfirmed, I should be inclined to doubt the fact; or, at least, to suspect great exaggeration in this witness. But the fact, in all its details and excesses, is proved by the declarations of the deceased himself at various times, and to different persons. — Mrs. Ottley deposes: "The deponent's daughter was very ill; the deceased asked the deponent to leave her there as a companion for his daughter. The deponent declined this at once, but said that if he would allow his daughter to come to her for a few days, they would become acquainted; he agreed, and Miss Stott came on a visit to the deponent at Hampstead, where she staid for about four or five days; after that the deponent saw no more of her till some time in the same summer, when she fled to the deponent for safety." — I mention these previous facts in order to explain the reason of Miss Stott's going to Mrs. Ottley's house, when she made her escape from her father. — "She remained then for about three months, and the deceased came to see her frequently — two or three times in a week; he then wished the deponent to take her under her care wholly, but this she was obliged to decline, because having several children of her own, it was more than she could undertake. He then put her to a

school at Hampstead, where the deponent's daughters went, and there she remained for a year and a half, or possibly two years, when he took her away; while she was there the deponent kept an eye upon her, and had her frequently to her house, with her own girls."—The witness then proceeds to give her the excellent character already stated.—“She has heard the deceased mention his punishment of his daughter—that he had flogged her, and had confined her to her room. She thinks that he described his having tied his daughter to the bed-post, stripped her, and flogged her in a way, which he described, so as certainly to convey the idea of very brutal and inhuman conduct, and this was for some prevarication in giving an account of her thoughts. Whether when Miss Stott fled to the deponent for safety, she escaped from violence that was intended for her, or that had fallen upon her, the deponent does not know; but she thinks it must have been the former; after so many years she cannot be positive. The deceased had sent to enquire after her, and the deponent sent him word, that she would see him the next morning. When she saw him, he was crying, and in a state of great agitation; what the nature of it was, she cannot depose; for his whole conduct and conversation, respecting his daughter, were very inconsistent; while describing her as every thing that was vile, he spoke also of his extreme fondness for her; his doating upon her; and he seemed to wish the deponent to believe that all the severity and cruelty with which he treated her, was only a proof of his extreme fondness for her. He was, however, on the occasion now deposed of, in apparently the deepest agitation; the deponent offered to keep Miss Stott, and he assented.

The base ingratitude of his daughter, was a continual charge against her, and was indeed his constant theme. She remained three months with the deponent; during that period, he required her to write letters to him, particularly to give him an account of all her new thoughts; he required that the most secret transitory thought that arose in her mind should be communicated to him; he wrote also a great variety of questions for her to answer; they were so framed, as to lead to the answers he would have: his daughter dared not do otherwise than obey."—This tends to explain the daughter's letters which have been exhibited.

There is another witness, Mrs. Hannah Duplay, to whom the deceased some years afterwards made the same declarations: she says, "The deceased declared to her more than once, that when his daughter was a child, she was so depraved that he was obliged to remove her from school; that he caused her to confess her depravity; he mentioned no particulars, he only spoke of her depravity generally; he said that he made his daughter write a statement containing a confession of her depravity; that, in that statement, she had lied, in consequence of which he had taken her up stairs and stripped her naked; that he had tied her to the bed-post and flogged her with a rod, in which wires were twisted, until the blood flowed, and that he had afterwards made the servant rub her with salt and water. That is as much as she remembers, but he said much more: he detailed the particulars of more protracted cruelty, for such it was as he related it; but she does not recollect any further particulars: when the affirmant charged him,

he did acknowledge that he had beaten her at other times."

Many other persons speak to similar declarations quite down to the time of making a will to the exclusion of the daughter. — This is a very important part of the case, and several observations occur upon it. — 1st. This cruel treatment is before the daughter goes to Mrs. English's school; when the single act of misconduct imputed is—the supposed act at Mrs. Rivers' school. — 2d. It is not punishment for that act; nor connected with it: it takes place many months after her residence at home—and upon some fancied prevarication in writing the account of her own thoughts. 3d. It is material to recollect that this escape to Mrs. Ottley, to avoid his extreme cruelty, is one of the "revolts" charged against her ever after, and recorded in the will itself, and in all the testamentary scripts. Lastly, it is most important to observe how the deceased views his own barbarous act—not speaking of it with concern as an act into which he had been betrayed by passion—not as an act requiring either to be justified or palliated—but as an act proving his own parental tenderness—as a proof on which he rests and insists that he is a most affectionate father, and she a most vile, profligate, and revolting daughter—and nothing can make him think otherwise.— And I am to decide whether this is proof of "deluded imagination;" or whether the deceased was a person of sound mind: and, let it be observed, that the question is not—whether these acts of cruelty, of themselves, prove insanity; for sane persons may be very cruel and savage; but whether, considering these outrageous inflictions to

be proofs of his tenderness and affection, and this unoffending daughter to be the extreme of profligacy and depravity, was or was not “deluded imagination.”

A letter from the deceased to his daughter written in the course of the period I am now examining, and several months before her second offence, has been produced by Mr. Clark: the letter is dated in January 1802. On both sides the attention of the Court has been particularly requested to the deceased's letters. — Their effect upon the question of his sanity may be most correctly ascertained by connecting them immediately with the contemporary facts. This letter was written after she was placed at Mrs. English's school, and long before her removal from thence.

“Charlotte — I write not to please you, or to satisfy the curious busy world, but to acquit my conscience of a duty which I owe to God, to you, and to myself. In doing this, I charge you, in the name of that awful Being — I charge you as a father, whom while on earth you ought to love and revere, that you be mindful of the importance of the present moment, which is big with events of the highest importance to your comforts here and to your immortal soul hereafter. You have revolted once more from duty, obedience, and true affection — you fly in the face of Heaven, from the protection of a tender, kind, and but too indulgent parent.” — “You have flown from me a second time without any cause, and this step is also marked by a system so deliberately infamous, as not to admit of a parallel. You have been guilty of theft, and again of untruths.” — “You say in my illness I told you that you was indifferent

to me: this is an untruth, which my conduct even at this moment contradicts; for, if you could be indifferent to me, the kind hand of mercy would not be held out in preference to the hand of justice, which ought rather to overtake and punish you for your crimes, your matchless crimes."

I have already read that part of Mrs. English's evidence in which she says, that no child could have conducted herself (with the single exception to which she speaks) more properly than Miss Stott, during the whole period of her being at school, and the exception had not at this time occurred.

"If you hope for pardon—if you expect any protection, save a bare maintenance in a most retired and confined sense, you must seek it in a different manner, by showing a thorough sense of shame and guilt, by a perfect sense of humiliation and contrition, by self-abasement. You know the base part you have acted, the numberless crimes you have committed against even your own confession of the truth; if you had seen in me, either by precept or example, any thing to warrant your breach of filial duty, it would serve as a plea, but you have no such plea to make. You have yet time for repentance, and a way is open for pardon—seek it on your knees at the Throne of Grace, which you ought always to have done whenever that evil Spirit assailed you which has so frequently led you astray. While I live I will persevere in my plan, and preserve consistency."—These terms are material as they are repeated in a subsequent part of the correspondence.

Coupling, then, this letter with—his treatment of his daughter at home—her escape—her "revolt,"



as he calls it — and his impressions of his own and of her conduct, whenever he speaks of this transaction, — if I were bound to pronounce upon his state, at this time, and without further evidence, I should have great difficulty in saying, that he was of sound mind: but there are further circumstances to be considered before it is necessary to form a decided opinion. The deceased placed Miss Stott with Mrs. Dutton at Morden, and then removed her to the house of his friend Mr. Goff, where she remained two years. I will take Mr. Goff's account: —

“ The deceased's reason for placing his daughter with the deponent was, as he said, that she might see the impropriety of her conduct, and, her want of affection, and stubbornness of disposition. The deponent was not willing to have her, because he well knew at that time, what the deceased was, and that it was a change in him, and not in his daughter, that was wanted; but the deceased pressed it, and the deponent received her. The deponent told him repeatedly, that the cause of all was to be found in himself — not in her; that his violence and severity were such, as to defeat the object he professed to have in view, and more particularly after she had been for sometime with him, the deponent told him that she had behaved in the most exemplary manner; that if she were the deponent's daughter, he should be proud of her, and that the deceased had but to conduct himself reasonably towards her, to put an end at once to all the wretchedness of which he complained on her account. The deceased seemed to be unconscious of any severity on his part towards her; the idea that he failed in

his duty, was not to be endured for an instant; the deceased and his conduct were perfect in his own estimation; he was the most kind and indulgent parent; and it was her misery not to know the blessing she had in him; yet, in the midst of his declarations of tenderness, the instant she appeared, his eye flashed with rage and scorn, his countenance underwent a total change, and he spurned her from him as a common reptile; but this did not happen while she was with the deponent, for the deceased never saw her during those twenty months."

This witness, after entering into a long detail respecting the deceased's letters, full of interrogatories, and his multiplied and strange directions; and after mentioning his vain endeavours to remove the deceased's alienation of mind, thus concludes his deposition on this article:—

"There was nothing but perversion, contradiction, and absurdity in his behaviour respecting her, proceeding, as the deponent verily believes, from delusion of mind."

This is the account given by Mr. Goff, whose evidence on the fourth article has been already quoted: "She conducted herself, in all that deponent ever saw, with strict decorum and propriety."—There is another contemporary letter from Mr. Stott to Mrs. Desormeaux, which, taking it to have been the real impression of his mind, is mere imagination and "delusion."

"To promote the establishment of her mind in a good solid and virtuous education, many things must be considered. First, there must be a DISPOSITION to learn; a want of this disposition is so manifest, she will not take a book of any kind in her hand to study; and she declares to Mr. Goff

that no force shall prevail to oblige her. Secondly, where can masters be found, supposing she had a proper disposition, whose integrity may be such as to resist temptation. Mr. Goff asserts he is obliged frequently to exert himself to preserve a proper distance, and that she is not fit to be placed in any house where a man resides. She asks for masters, saying, she cannot learn without; no doubt they might be useful; but might not the trial be attended with evil instead of good?"

Here, then, the deceased says he has these representations from Mr. Goff—that she is not fit to be trusted in any house where a man resides; and that he, Goff, has been frequently obliged to exert himself to keep her at a proper distance; when, in the face of such statements, we have Goff's own deposition upon oath, that during all the time Miss Stott continued to reside in his family, no young woman could have conducted herself with greater propriety or decorum; that he never saw any thing in her behaviour in the least degree contrary to that demeanor; and that if he had a daughter, he could not have desired more than that she should be what Mrs. Dew then was. Here, therefore, the impressions of the deceased are founded in that which is quite manifest delusion of mind. I must suppose that Mr. Goff is sincere in what he so deposes. She remains with him under his care and protection for about twenty months, I think, and yet, notwithstanding this powerful testimony to her exemplary character during that period, the deceased writes to Mrs. Desormeaux that she is not fit to be trusted in the same house with a man.

There are other letters of the deceased and of the

daughter about this portion of the history. — The deceased's letters to Miss Iley, in 1804 and 1805, are exactly of the same tone and temper. — The letters of the daughter, from the very phraseology of them, are manifestly written to soothe and conciliate the deceased — adopting his very expressions and phrases: they have not and could not be relied upon as any sort of proof of her misconduct: they are, as Mr. Goff states, as much the deceased's letters as if he had dictated them, and stood over her with a whip to compel her to write them. The requiring her to write such letters, tends only to bespeak his derangement. Dismissing, then, the evidence and letters of this particular period, as explaining and elucidating each other, I shall proceed to some further evidence not immaterial in confirmation of the general view.

The deposition of the Bishop of Durham, who attended the deceased as an electrician from the year 1796 to the year 1812, has been much relied on, and it is to this effect: — “The deceased spoke of his daughter, at a time when she must have been very young, as being a very wicked girl; what the vices were with which he charged her, the deponent does not remember, but there must have been a specification of some, because the deponent's answer to him was, ‘that it was not possible that a girl of her age could have been guilty of them.’ The deponent endeavoured to convince him that it was not possible, but he listened to nothing; his violence was such that there was nothing which he was not prepared to impute to her, and the deponent could make no impression at all on his mind; all his declarations conveyed to the deponent's mind the

impression of the most abominable ideas that could possibly enter the mind of a father, and that at a time when it was not possible that she, as a child, could have done any thing to have caused such inveteracy."

At present this evidence does not require any comment. It comes up to what was defined by Dr. Lushington, in his argument, to be "insane delusion," namely, — "the belief of facts, which no rational person would believe." Another witness to the same effect is Mrs. Hannah Duplay to whom I have already referred, and who had much opportunity of judging of the deceased's conduct. "She frequently remonstrated with the deceased on the subject of his daughter; avoiding every thing to irritate him, and striving to induce him to adopt a different mode of treatment. He justified at all times his conduct in all its severity, on the ground of her depravity, obstinacy, and rebellion, declaring that all he did was for the good of her soul. He appeared utterly unconscious of any impropriety in his conduct. The treatment did not consist of occasional acts of violence — the effects of passion; but was systematic, and justified on the ground of her peculiar depravity. The deceased said that she was guilty of many heinous crimes, and when he proceeded to specify them, he mentioned deceit, disobedience, obstinacy, aversion to every thing good, depravity of mind and heart. The delusion had such possession of the deceased's mind, and had acquired such dominion over him, that he was inaccessible to the influence of reason respecting her. He always spoke of his own conduct to his daughter as being under the peculiar special

direction of Heaven, and thereby removed from the sphere of human judgment." — If these circumstances do not prove insanity, it is difficult to say what will be sufficient. "He considered and spoke of all who in any way defended his daughter as being themselves deluded, and their judgment perverted; he told the affirmant of the Bishop of Durham, that he was a blind, infatuated being of perverted judgment, — the Bishop having been speaking to him just before about his daughter."

This account is confirmed by several servants who lived in the family at this period, and whose evidence is material as showing the domestic arrangements to which he required his daughter to conform.

Hannah Wright states, "that she went into the deceased's service about the latter end of the year 1805, or the beginning of the year 1806; she has seen the deceased seize his daughter by the hair, and tug and shake her violently, and some of the hair come off. That he used very abusive language towards her, and said, that if it had not been for his care, she would have been a whore at ten years of age; that she could not look at a man but she wanted to go with him; his language was filthy and indecent, and his daughter was as different a girl as possible from what he described her: the deponent has seen him strike her with his fist several times and fairly knock her down. Once on returning from a watering place, he charged her with having said, that she wished he might never come back again: she assured him that she had never said so; then he flew at her, and struck her a violent blow with his fist, and knocked her down, for daring to contradict him. The deponent has seen him strike her with a horsewhip; once

he cut her across the neck and shoulders so as to raise large weals; he continued flogging her for some time, and he cut the deponent with it two or three times for interfering and endeavouring to save her." — She mentions other instances, and mentions also his domestic arrangements. — "The deponent has known him make his daughter carry pails of water up to the top of the house, and scour down four pair of stairs, besides the rooms; that was done but once, — but the weather was bitterly cold. Miss Stott suffered much from chilblains; when they were so bad that the blood was running down her fingers, the deceased insisted upon her washing out all his linen; the deponent begged that he would not do so, seeing that her hands were in such a state; the deceased swore a great oath at the deponent, and said it would cure her, but she did it for her unknown to him. At one time he confined her to her room for a fortnight to cure her obstinate temper, as he said." — She then speaks of other menial offices. — "The deponent does not know of any thing that she did to disobey or displease him, while the deponent was there. He spoke of himself as being nothing less than perfect, and his daughter altogether as bad and vile. The deceased must certainly have been out of his mind at times, as the deponent believes, and has always thought."

Martha Wright, who was with the deceased from the month of January 1806, till April 1808, also states, "that the deceased told her that his daughter having refused to confess herself guilty of something he charged her with, he took her up stairs, stripped her, and flogged her, as the other witnesses have

described. He justified what he had done, and said that the Bible taught him to do it: though the relating it made the deponent shudder, the deceased himself seemed to be quite pleased with remembering and relating it. — It was chiefly when at family prayers that she heard the deceased make use of abusive language to his daughter; addressing her, as she stood before him, as a depraved wretch, a base wicked girl, obstinate, idle, deceitful, and reproached her for not loving him; he would go on talking about her in that way, and about himself, as the kindest and tenderest of parents, till he worked himself up into a fit of passion, which it was frightful to behold; he would on such occasions shake his fist at her, stamp with his foot, and strike the table violently, while he was pouring forth his reproaches against her. The deponent has heard him damn her, when he had the Bible before him. She remembers one occasion, when the deceased undoubtedly flogged his said daughter with a horsewhip; and it was in consequence of it that the deponent gave warning, and left him. It happened immediately after dinner; Miss Stott had lately come home, Silas, the servant lad, had just come down stairs, when they heard the blows of the horsewhip, and ran up stairs; the deceased must have heard them coming; he came out of the surgery holding his hands behind him, but looking like a fiend; the deponent can never forget his countenance; he went into the parlour, and his daughter ran up stairs as quickly as she could. The cause, as she believed, for so flogging her was, not having put some beef either into the scales, or into salt, as soon as it came into the house; both had been done by Miss Stott,



but one or other of the two had not been done immediately on the meat being brought in from the butcher." — This is another instance of an offence against his domestic arrangements. — "The deponent had reason to believe that the deceased both struck and flogged his daughter at other times; at this time the deceased had no other persons in the house but his daughter, Silas, and the deponent." — She then mentions that the daughter was obliged to do menial offices, (which account confirms Hannah Wright,) and yet she had tasks to learn which she did by fire-light, on a winter's morning. — "The deceased was a man of very singular habits and disposition. He was in a thousand things unlike any other man; but she cannot depose that he was of unsound mind generally, though she always thought that he would one day or other be quite mad; she believes, that his mind must have been wrong, unsound, and irrational, as to his daughter; she believes him to have been under some unhappy delusion respecting her."

Silas Barnard, who lived in the family from October 1806, till February 1808, deposes "to the same uniform good conduct of the daughter, and general ill treatment of her by the deceased. He mentions that the deceased had the servants in, on Sunday evenings, to expound the Scriptures to them; and that he prayed extempore, though, the witness says, it was a burlesque on prayer: the deceased detained them sometimes for three hours together. Miss Stott was sometimes allowed to sit; sometimes she was kept standing for an hour together, whilst the deceased harangued her on her duty, as a child, to seek and cling to her father." — This witness confirms Martha

Wright as to the horsewhipping. — “ They found the deceased with the whip in his hand; they reproached him for such horrible conduct; the deceased said nothing, but his look was terrible; it was fierce and savage, more like that of a wild beast, and he paced the room and passage and parlour like any maniac.” — He also confirms Wright in regard to the domestic drudgery, the state of her hands, and other circumstances. — “ The deponent never knew a fault, in word or deed, that she committed. The deponent has observed very strange and inconsistent conduct in the deceased, in respect to swearing, for in particular, when he had the Bible before him, attempting to expound it, the deponent has heard him utter oath upon oath:” — He mentions other instances of strange conduct, and then concludes — “ His belief is that the deceased was a crazed man, so he has thought, and so he has said many times, from the time that he was in his service; he was either a monster, or deranged in respect to his daughter, and what but insanity could have possessed him, the deponent knows not; he does believe that if the deceased had not been deranged, he could not but have been softened towards his said daughter; he was very strange in many other particulars, and the deponent believes him to have been a crazed man.”

Elizabeth Nicholson speaks to the year 1809. She lived in the service of the deceased about eleven months, during which time Miss Stott left her father's house. She gives the same excellent character of the behaviour, disposition, and principles of Miss Stott — “ dutiful, moral, religious, modest, humble, of the sweetest temper imaginable, she

did every thing she could to obey and please her father, and bore her sufferings from his ill treatment without murmuring, as long as it could be borne, and only grieved, that all she did, could not gain her father's affection. When the deceased went out, as he always did in the latter part of the day, his daughter was shut up to study, and to write an account of her thoughts. She was kept in such a state of terror of him, that it was distressing to see her. He no sooner came home than she was to appear with her account of her thoughts; as sure as he returned, the storm began; he stamped on the floor fit to break it through, thumped upon the table violently, and his voice, which was very strong, the deponent used to hear storming at his daughter, that it made her shake again; no one, who was not there, can have an idea of his violence; she never was present when he chastised or struck his daughter, but she many times saw marks of violence and bruises upon Miss Stott,—upon her face, neck, and arms, where she has no doubt that he had struck and beat her. There was something frightful in his look towards her, it was so ferocious." She adverts then, to the daughter's domestic drudgery of every description; and speaks of his lecturing her on Sunday evenings.—“ He upbraided his daughter with ingratitude, rebellion, obstinacy, deceit, and idleness; that she was to love him with all her heart and soul, and confess all her thoughts to him, the most secret that she had; he was to know them all; she was to obey him in every thing; he used to harangue her on the privilege and blessing she enjoyed in having such a father, so tender and affectionate as he described himself to be. The deponent does believe, that the

deceased was in a state of delusion respecting his said daughter; otherwise he could not have persevered as he did, for it would have melted a stone almost to witness his treatment of her; she trembled at the sight of him—the sound of his step, or knock at the door, shook her all over, and she cried at times ready to break her heart.”—And, certainly, it is not extraordinary to find, after looking to evidence of this description, that the daughter should have been at length removed from her father’s, by the kindness of Sir Thomas and Lady Barnard, and placed in a state of comparative ease—when contrasted with that from which she had been so released. The witness proceeds—“The deceased was a strange man in temper, disposition, and conduct; he was unlike any one the deponent ever knew, but she could not, therefore, say that he was any ways insane. She has seen, however, more than that in him. There was, at times, a restlessness about him, and a melancholy. Frequently in the morning he complained of the bad nights he had; he had his bed made and made again, in every way that he could think of. On some of such occasions he mourned heavily, as though something weighed on his mind, and then he complained that he had no consolation in his daughter, and how wretched he was on her account. In respect to his said daughter, the deponent does consider, that the deceased could not be in his right mind. During the whole time, the daughter never in word or deed, to the best of the deponent’s knowledge and belief, incurred his just displeasure, but laboured all in her power to please him, and he all the while treating her worse than a dog; he seemed to be so set against her, that

had she been an angel, the deponent believes she could not have turned him in any way."

This brings the history to the time that she finally leaves her father's house, and, under the protection of Sir Thomas and Lady Barnard, is placed at Miss Brent's school. And upon this evidence it was an act of mercy, I think, not only to her, but to the deceased himself, to rescue her from his power and cruelty—which probably would have ended fatally.

So much of the depositions have been introduced, first, in order to show, that there can be no doubt of the general description here given of the deceased — it is unnecessary to rely on minute facts, or single witnesses: secondly, because this is a most material part of the history: this is the period, and these are the "revolts," and "her not conforming to his domestic arrangements," which were present to the deceased's mind when he made the will, and were inserted in it: thirdly, because during this period, from the year 1802 to the year 1809, there is no act imputed to account for the measures of the deceased towards his daughter: and, lastly, because there are various other circumstances in the conduct of the deceased mentioned by these witnesses tending to establish unsoundness of mind. — These singly would not, perhaps, prove actual insanity, but are at least strong corroborative circumstances. Upon the evidence already examined, if there were nothing more, in my opinion, the deceased is proved insane.

From this situation the daughter, now twenty years of age, is rescued by Sir Thomas Barnard, and placed first at Miss Brent's school, and then with

Miss Atkinson: she then goes as governess into Mr. and Mrs. Abbott's family, where she continued five years and a half. — During this latter period, after the daughter finally left her father's house, the delusion appears manifestly to continue, and to become more confirmed: there is no symptom of recovery — there is not the least evidence to show that his derangement was removed, and that the correctness of his mind was restored; — for to that enquiry the case might now be confined.

In the year 1810 the deceased's acquaintance with the Reverend Mr. Wilson — the minister of St. John's chapel, Bedford Row — commenced, and a strange commencement it was; for the object of the deceased seems to have been, to complain that his servant had not cleaned his shoes properly — Mr. Wilson thus relates it. “The deponent's knowledge of the deceased, and of his daughter, was strictly in his character as a clergyman. When the deceased first visited the deponent, his manner was very singular, as was also his communication. He had hardly sat down before he began to speak of his daughter. Upon the deponent's enquiring of his family, he burst into tears, and said, that he was the most unhappy of parents; the reason he assigned was the conduct of his daughter, whom he described in such terms as induced the deponent to think that she was a very abandoned and profligate girl. He described her as having been, from her earliest infancy, a most obstinate, incorrigible, wicked, and unnatural child: the deponent really did not know, from the deceased's account, whether she had not become a common prostitute. In the course, however, of what the deceased then detailed, he gaye

some general account of his treatment of her, which, to the deponent, was alarming; his manner was vehement and ferocious; the deponent was terrified by it, and passed from the subject, as quietly as possible, with some civil expression, that he hoped she might see her errors, though the deceased's peculiar appearance, manner, and apparently exaggerated statements, excited some doubts in the deponent's mind, whether his daughter were really that very abandoned person which he described her to be. The deceased then proceeded to what appeared to be the object of his visit, which was, to make a complaint against a man-servant about something very trivial, — such as not having cleaned his shoes properly, and he wished the deponent to see and speak to him; to which request, singular as the application was, the deponent acceded, being induced to consent, in great measure, from the apparent violence of the deceased's disposition." — Here then, in conduct, in manner, and in mind, is an appearance of any thing but soundness; — this was in the year 1810. The Bishop of Durham's last interview with Mr. Stott was in the year 1812, when he held the venerable prelate in a sort of imprisonment, though in his letters he asserts that he turned the Bishop out of his house. In the year 1813, his acquaintance with Mr. Willatts commences. It is unnecessary to travel through the history of that acquaintance, and of Mr. Willatts' opinion respecting the deceased's mind — but the very commencement of it is extraordinary, and like the inconsistency of persons under mental disorder. Mr. Willatts was in embarrassed circumstances — the deceased had learnt this probably from Miss Terry; he met him coming from

divine service, and Mr. Willatts thus relates what passed : — “ On a Sunday in the beginning of July 1813, the deponent coming from Saint John’s chapel, where he saw Miss Terry, afterwards the deceased’s wife, of whom the deponent had some previous knowledge, in a pew with a gentleman, felt some one tapping him behind, and turning round, told the person, who was the deceased, that he had made a mistake ; the deceased said, ‘ No, your name is Willatts, is it not ? ’ the deponent acknowledged his name, but said he had not the pleasure of knowing him ; the deceased then said, that he must have some conversation with the deponent, and he led the deponent on towards his house in Hart Street, Bloomsbury ; where the deponent being urged to it by the deceased, spent the rest of the day with him. On their way as they walked, the deceased told the deponent, that he knew he was a distressed man ; but added, that he would clear the deponent from all his difficulties, and in the hope of that relief, the deponent spent that day with the deceased, and, on the following morning, again called on the deceased by appointment, and made the deceased acquainted with his situation. The deceased immediately advanced a sum of 4,500*l.* to the deponent, and thus his knowledge of the deceased arose, and his intimacy with him began.” — Thus the deceased, who was very careful of his money, and had accumulated a large property, commences an intercourse with a person whom he had never seen before ! — This surely is no great proof of a sound mind.

In the month of July 1814, the deceased seeks the acquaintance of the Rev. Mr. Bartlett, the assistant preacher at St. John’s chapel. — In the



conduct of this gentleman I can see nothing but what is eminently praiseworthy and humane: the goodness of his motives has not been questioned. If by taking up the cause of (in his view) an injured daughter, whose wrongs he attributed to insanity in the father, he has become biassed — the Court must exercise some caution and vigilance in trusting to his mere opinions; but I see no reason to doubt the truth of his facts: — as far as moral character, and an intention to speak the truth go, he can be relied upon. He may depose under bias — the Court itself requires the utmost vigilance to guard its own judgment against being warped by the feelings of compassion, which the circumstances of this case are calculated to excite. To protect itself against the suspicion and imputation of being so warped is an additional reason for stating the evidence fully, in order that the parties themselves, and all others, may be aware of the actual grounds on which the Court has formed its opinion. Mr. Bartlett says: “Before the deceased had been many minutes in the room with the deponent, on the occasion of their first interview, he addressed the deponent, saying, ‘Ah, sir, I am the most wretched of parents. I have a profligate and abandoned daughter.’ The deceased wept and was violently agitated. The deponent asked him if it were in his power as a clergyman, in any manner to alleviate his distress: he replied, it was quite a hopeless case; that many persons had attempted to reclaim his abandoned daughter, but that it was impossible to make any impression upon her, her mind was so obdurate. The interview lasted for about half an hour; the deceased frequently referred to his daughter as a lost abandoned creature,

beyond the power of reformation ; but before they parted, the deceased said, he hoped that God had raised up the deponent to convert his daughter. The deponent said, that he would see her if the deceased wished it. To this the deceased assented, and expressed a wish that he would go to her at the house of Mr. Abbott, at Blackheath, in whose family he said she then resided.”—Before Mr. Bartlett sees her, he has several further conversations with the deceased, who repeats his description of his daughter “as profligate and abandoned ;” and alludes to her having made many of his friends his enemies, and cautions the deponent against her extreme artifice, upon which he lays great stress, using the expression of her “satanic art,” with others of that nature. “He calls her a ‘monster of ingratitude,’ ‘the special property of satan,’ ‘a very devil,’ ‘possessed of satanic art,’ ‘who would deceive the very devil.’” Mr. Bartlett has several interviews with the daughter, approaching her under these prepossessions ; but he at length discovers her to be the very reverse of all this description. He details the particulars, and it would be hardly justice not to state them immediately. — “The deponent had now seen her several times, and was very much struck with the peculiar propriety of her behaviour on every occasion, with the anxiety she expressed to be reconciled to her father, and to do whatever was thought right ; and with the delicacy she observed in speaking of him, but which the deponent could not then fully appreciate, for she forbore to mention any of those circumstances of indignity and cruelty, which, as the deponent afterwards found, she had experienced at his hands ; the deponent afterwards laboured to

convince the deceased that he was entirely under a delusion, in respect to her ; but though the deceased exhibited at times the appearance of being for the moment softened and subdued, yet the delusion of his mind, that she was all that he described her to be, was never removed." After various interviews he found the deceased's expectations so unreasonable, " that it was quite impossible to forward them. He said, ' She must return as a prodigal and confess her sins ; she must throw herself entirely upon me ; submit every thought and sentiment, word and action to my direction ; see no one, write to no one, and never go out without my express permission.' These terms were communicated with great energy and vehemence, in a high tone of voice, and in a manner expressive of great excitement. Upon the deponent's remarking, that those were very unreasonable expectations, considering his daughter's age, the deceased replied, ' that they always had been and always would be his demands ; that if he never saw his child again, he would not depart from one iota of them, and that sooner than give up any part of them, he would leave her to starve.' — All the expressions are remarkable, and connect themselves with the letters of this period, and with his future testamentary acts. — " The deponent said, it would be quite in vain to attempt a reconciliation any further. The deceased then began to accuse the deponent of having been perverted by his daughter, as she had perverted the Bishop of Durham and Sir Thomas Barnard. He then wept very much, cried like a child, regretting that all his friends were become his enemies, and that none could see the case as he saw it." The deceased frequently called on him afterwards —

making the same representation of his daughter's profligate and abandoned character — but it would be a mere repetition of evidence already stated to advert further to this, and to his assertions of his own kindness and affectionate conduct. — Mr. Bartlett then proceeds: “ On the deponent's asking him one day whether he had been quite judicious in his treatment to his daughter, whether he had tried a change of measures, the deceased exclaimed, springing up at the same time, ‘ Measures! sir; I have tried every thing: I dragged her up stairs — tied her to the bed-post — stripped her naked — twisted a rod with wire — flogged her till the blood ran down to her heels — rubbed her back with salt and water — and that would not do.’ The circumstances which the deceased detailed, and his vehement frantic manner, made the deponent shudder. The full extent of any specific charge he brought against her, was prevarication, and lying, in giving an account of her thoughts. His general charges against her of depravity and wickedness, obduracy, profligacy, and the like, were incessant. At another time, the deponent remarked to him that he thought he had been unduly harsh towards her, upon which the deceased became extremely enraged, he jumped up, stamped on the ground, clenched his fist, looked at the deponent with a face full of fury, and said, ‘ I harsh! sir; I am incapable of being harsh;’ ‘ I am incapable of being irritated;’ ‘ my mind is as pure as my God;’ ‘ I am as perfect as the Deity,’ — yet storming with rage at the moment, and in such a state of excitement that it was like nothing but the ravings of a madman, and was, as the deponent believes, a violent paroxysm of insanity. This paroxysm was

followed by a burst of tears; and on most of those occasions the deceased was alternately convulsed with rage, and melted down into weeping." — Here then is delusion travelling on to frenzy.

The witness had various interviews with the deceased—the deponent renewed his applications repeatedly, but they always ended at the same point. He mentions another particular occasion, “when endeavouring to convince him of the impropriety of his conduct towards his daughter, the deceased clenched his fist, thrust it near the deponent’s face, and said, vehemently, ‘Take care, sir, don’t urge me too far; I turned the Bishop of Durham out of my house, and pushed Sir Thomas Barnard down stairs, for not saying half so much;’ and on several occasions the deponent sat in such a situation as to be ready to start up most quickly, having no inconsiderable apprehension for his own safety. The deponent, at length, gave it up as a desperate case, convinced of the deceased’s derangement.” — This, then, was the condition of the deceased during Mr. Bartlett’s intercourse with him in the year 1814.

In the month of October, 1814, Mr. Stott marries his second wife — Miss Terry; and in his letter to Miss Iley, written a few days before the intended marriage, he says, “I hope the blessing of God directs me to the measure, seeing my daughter remains an ingrate to all importunity.” — The nature of his importunity and her ingratitude has just been shown from the evidence of Mr. Bartlett. During this period, namely, in the years 1813, 1814, and 1815, the deceased becomes acquainted with Mr. Dew; and Mr. Dew receives Miss Stott first as a visitor, then as a governess; for which, in

the month of January, 1815, the deceased quarrels with him, and breaks off all connection. Mr. Dew's account is as follows: — In 1813, the deceased having noticed the deponent's imbecile son in his walks, told the servant that he could cure him. Mr. Dew called to thank him, when the deceased talked to him about his daughter, and he called to see her at Mr. Abbott's, and afterwards at Mr. Meyrick's, where she went on leaving Mr. Abbott's. Mr. Dew was prevailed upon by the deceased to try electricity, and he continued the trial about a twelvemonth; the deceased received him in the morning; and went very frequently to Mr. Dew's in the evening. After his son discontinued attending him, the intercourse became less frequent, but it was not broken off till the year 1815.—This is the history of their acquaintance.

Mr. Dew thus proceeds: — “Very soon after his acquaintance, the deceased spoke of his daughter as a most abominable, profligate, abandoned, degraded wretch; of unequalled depravity of heart — vile, unfeeling, unnatural, brutal, but withal most artful, and to such an extent, that she had the power of fascinating people, and persuading them that he was wrong in his opinion of her, and that nearly all his friends had deserted him in consequence; that he was continually losing his practice, in consequence of the arts of this abominable daughter: his expressions were uniformly such; but his manner was not always the same; at times he was in a state of irritation, at others of depression, lamenting his hard lot, and shedding tears. The deponent once endeavoured to hint, in a quiet and gentle manner, that his daughter might not be altogether what he described; but the way in which it was met by the

deceased showed him at once how utterly useless it would be to attempt to reason with him about her. The deceased exclaimed, ‘Why was she not at his threshold on her bended knees, confessing her crimes?’ He poured forth a torrent of abuse against her, and was in a frightful rage; his countenance distorted — his eye wild with passion — his manner and action most violent. The deponent, therefore, never introduced the subject again, but avoided it; though it was the deceased’s favourite topic.”

“One day, in 1815, having been electrified, the deceased begged him to wait, as he had something serious to say. The deceased mentioned, that he had seen his daughter at the window of the deponent’s house: — and he proceeded to make a strong representation to the deponent, of the heinous sin, in the sight of heaven, to encourage a daughter in rebellion against her father, and insisted on the deponent’s turning her out of his house immediately, and requiring her to come to him, crawling on her knees, confessing her sins, and imploring his forgiveness: the deponent told him that he could not do that; — the deceased broke out into some insulting and gross language: the deponent afterwards wrote him a letter, and he returned an angry answer, and so their intercourse ended.”

The letter alluded to is exhibited together with a draft of the answer; and the deceased’s answer is relied upon as written with great force, and as marking a perfectly sound mind. Force, and energy, and ability, the deceased — like other insane persons — might not want; but the letter itself, in my judgment, and connected with the circumstances, proves any thing but soundness: on the contrary, if

ever he was under delusion it proves its continuance. If the facts were all true—if the daughter was all depravity, and the deceased all kindness—the letter would show a sound as well as a powerful mind; but if all his assertions are mere fancies, and both he and his daughter are the very reverse of his imagination, then the letter is decisive proof of madness. He says, in the course of this letter — “ You knew my daughter to have revolted from that duty which she was bound to show to her father, and that she is still persisting in disobedience.” — “ You used the term ‘unfortunate,’ applying it to her; who, or what makes it so? She revolted — she continues in her revolt. — I have declared openly, that my door is open to receive a convert to true principles; when she comes prepared as she ought to be, if she be not received, and treated as a daughter, then she will have cause to complain: until then cease using that term.” — “ I feel a conflict in this discussion beyond my power to describe to you; it is so strong, not against, but for my daughter — not with enmity and hatred, but with love and purity, exercised in private prayer to that great Creator of whom you speak, and whom I worship and adore.” — These passages, then, serve to prove that his erroneous impressions and delusion of mind still existed; and that there was no return to a sane state.

In the year 1816, the deceased’s second wife dies. The daughter, with a proper sense of duty, ventures to go to her father to soothe his mind; and again, in that moment of affliction, to hope that his heart may be softened. It was also upon this occasion that the Rev. Mr. Wilson attempted to renew in the de-



ceased the feelings of natural affection. Mr. Wilson's account is to this effect:—"The deceased's second wife died in the year 1816. The deponent performed the funeral service at the deceased's request. The deponent received a very proper note from Miss Stott, requesting the occasion might be used to reconcile her father's mind to her."—In consequence of this letter, he has several interviews with the daughter, and finds her the very reverse of the deceased's former description: he, then, states his first proposal to the deceased on the subject of a reconciliation.—"The deceased received the proposal with the greatest eagerness, and used some such strong expression, as that 'it would be his salvation:' he showed considerable excitement then, and his behaviour was very strange." On a second interview, "the deceased expressed the liveliest pleasure that the deponent would undertake the business, and then told the deponent that there never was such an affectionate, indulgent father as he had been: he remembers this the more particularly, on account of its inconsistency with what followed; for without appearing to be at all conscious of that inconsistency, he proceeded to detail, just as if it had been an account of the utmost kindness, tenderness, and sympathy, his treatment of his daughter."—The witness then relates the history given by the deceased of the flogging, &c.—pulling out her hair—her rebellion in flying from him, in the same manner that it has been deposed to by the other witnesses. "He showed the deponent a dent in a mahogany table, which he said was the effect of a blow he had intended for her: it was such as the deponent would suppose might have killed her: the deponent thinks

that the deceased said he had done it with the poker." So that really it was an act of mercy to the deceased himself to remove his daughter from under his dominion. The witness then narrates his conversation with him, using every sort of reasoning without effect. "The deponent was in some degree of apprehension for himself, expecting personal violence: the deceased's manner was furious; his look quite ferocious; his feeling towards his daughter, when speaking of her having left him and refusing to return, was like that of a wild beast disappointed of its prey."—He at length becomes calm, and agrees to a proposal of Mr. Wilson for bringing his daughter to an interview. — "The deponent had very little expectation of a good result, satisfied that the deceased's mind was diseased on the subject of his child, but he determined to make the attempt."—They went accordingly. — "At first the deceased met the deponent as usual; but at the sight of his daughter, his countenance underwent a sudden change: his eye lighted up with an expression of malignity and fury, that was terrific." — He then relates what passed; and proceeds; — "The deceased was apparently restrained only by the deponent's presence from falling upon her. The deponent thought it necessary to remove her from him, as quickly as possible, and he did take her away." Within a day or two he makes a further trial, taking her to drink tea with the deceased; and Mr. Bartlett also attended. — "The deceased would not speak to her: he would not look at her: it appeared to the deponent that the deceased was restrained by their presence only, from breaking out in words, if not acts of violence. Mr. Bartlett left them early. The deponent, as a last attempt, read a

portion of Scripture, and prayed. When the prayer was ended, the deceased spoke to him about it with reference to the petition for a change of mind and feeling in the deceased towards his daughter, and said, that the prayer was inapplicable; that the deponent did not know him, and quite mistook his character. The deponent found it impossible to produce any beneficial effect upon the deceased, and they parted. The only effect which the presence of his daughter had on the deceased, was that of extraordinary sullenness, and the deponent took her away, for he would, on no account, have risked leaving her in her father's power."— He called afterwards, and remonstrated: it produced only the same result. "The deponent still found the deceased perfectly satisfied with himself, and the deponent was unable to shake, in any degree, the deluded conviction of his mind; that he was every thing that was affectionate and kind towards his daughter; and that all the fault was on her side: he appeared incapable of receiving any right impression on the subject." He deposes, on the twenty-second article, "That the deceased was, as the deponent is fully persuaded, under a fixed delusion of mind with regard to his daughter, which, as far as the deponent's observation went, continued without break or interval. The deponent considers the deceased's state of mind to be clearly and essentially different from that of a merely wicked man, or of one under the influence of prejudice, however strong. The deponent believes it to have been a complete delusion, which the deceased had no power to resist; and in proportion as that delusion was released from the controul of a temporary external

restraint, he became vehement, and was liable to excitement to a very fearful extent."

Looking to the facts thus stated it is difficult, even upon those facts, not to arrive at the same conclusion with Mr. Wilson; but the Court has the advantage of not being confined to those facts, but of seeing and tracing the mind of the deceased through many other acts, and transactions, in the course of this history. Mr. Bartlett confirms Mr. Wilson as to what passed during those interviews, at which they were both present; and he likewise draws the same inferences. Mr. Bartlett also, in his evidence, mentions one or two other circumstances not immediately connected with these particular interviews, but of the same extravagant character; such as — the deceased's insisting on getting him a living as a mark of his gratitude, and sending to the Lord Chancellor's house to inquire about it; — insisting on his accepting pecuniary compensation for his trouble and expense about his daughter, and thrusting a crown piece into his hand "as a reward for his incalculable trouble:" — speaking of cures he had performed, which were quite incredible, — among others — that of a young woman with a withered arm: "after electrifying her he perceived that she had faith to be healed; he commanded her to stretch out her arm," imitating the tone and manner so vehemently as to be terrific; and, using the very words of Scripture, he added, "She stretched it forth whole as the other" — considering himself to possess the unlimited power of curing all kinds of complaints by means of the electrical process. These particulars are not immaterial, for they are the ordinary accompaniments of derangement: —

there generally is a predominant delusion; but the deranged character of the mind usually manifests itself also in some other extravagances, while still there are other matters, and occasions, on which the disorder does not show itself at all. — This latter fact induces many observers, and even intimate acquaintance, either not to doubt perfect sanity; or at most only to attribute to the person some degree of eccentricity; or else to suppose that he has a lucid interval.

These kind and humane attempts, on the part of Mr. Wilson and Mr. Bartlett having failed in the spring, or in the beginning of the summer of 1816, in the autumn of that year the daughter, now engaged as governess in the family of Mr. Dew, went with that family into Switzerland; and returned with them in the following spring of 1817. Soon after her arrival in England she writes her father a letter — which, under all the circumstances, does her great credit — tending to conciliate, and soothe him, and going quite as far, after all that had happened, as could be expected, or was likely to be either useful or safe. His answers are in the same tone as his conversation with Mr. Wilson and Mr. Bartlett, and agree with his former declarations and previous state of mind: — in one of them there is this sentence: “The only plan by which you can gain free access to my heart and feelings is to throw yourself into my arms, determined, like the prodigal, and using his language, to submit to be governed by me entirely.” So again in a subsequent letter, he says — “Do you consider yourself accountable to any body on earth but your father? and can you and will you henceforward be governed by his will, opinion, and

disposition, solely and entirely, without any mental or reservental conclusion or definition whatever, coming to him in the language spoken of in my former note?"—that is, as a prodigal son, and using the words of Scripture employed in that parable. Now this is language that occurs in the declarations and letters of the deceased at various parts of his life. It is mentioned by Miss Atkinson, that he required his daughter should come into his presence, crawling upon her hands and knees, and repentant as a returning prodigal.

These passages mark the continuance of the same "delusion of mind,"—but what had happened before this time is very material. In the latter end of the year 1816, he had given instructions for a will, which is script No. 3. — In the month of December, 1816, the draft of that will, script No. 4., is prepared; which will is executed on the 19th day of March, 1817, being script No. 5. In these scripts there is a legacy to Miss Iley for having assisted in training his daughter, "after she had thrice revolted from his care and protection, and refused to conform with his domestic arrangements." There is a legacy to Mr. Goff for the same cause, and there is the same small pittance for the daughter herself; — he does, however, give the residue to the children of the daughter, — but she is only to have the management of them till they are six years of age, and then the trustees are to be their guardians. — If the daughter has no children, then he gives the residue to the Bible and Church Missionary Societies. Script 5. differs from the others in that it bequeaths to his nephews, Thomas and Valentine Clark, the residue of monies arising from the sale of real securities; but

these were of no great value. In the will propounded — the children of the daughter, and the Bible and Church Missionary Societies, are excluded; and the entire residue is given to these two nephews; with whom no intercourse of affection is proved.

The exclusion, then, of the daughter, did not originate in any offence taken at some supposed neglect after her return from abroad; nor was it on account of her subsequent marriage with the younger Mr. Dew, that the adverse disposition is made. It is made on account of the previous ground of delusion, which has run through a great part of the history: namely, “the revolting from his authority, and seeking other protection, and not conforming to his domestic arrangements.”

This renders it unnecessary to consider much what passed in respect to that marriage. — It is clear that the deceased disapproved it, as he disapproved every thing which she did or could do; and from the same cause that he disapproved her going as a governess into Mr. Dew’s family — from the irrational fancy — that it was a continuation of “revolt and rebellion.” He had delusive suspicions on this subject at an early period, though it does not appear that he ever wrote to forbid the connexion. His letter to Mrs. Desormeaux, in the month of April, 1817, just after the execution of the former will, is full of those suspicions. He says, “Goff came here. I find he has been closeted with my daughter at W.’s, and has begun to take part with her; however, on hearing me, he hesitated and went away, saying, I should hear farther from him, but I have heard nothing though a week is past. A plan is fixed by the party to marry young Dew, and to oblige me

to give a handsome portion. I saw through this some time ago, and prepared myself for it. The craft and cunning of this device is checked, though not entirely subdued. I will not tire you with detail on what has passed between the original inventors—the plots laid, the language used, and the deep-laid schemes to bring disgrace upon me. I trust my views are superiorly directed, and governed by that Being who cannot err, and on whom I rely, supplicating his mercy and pardon.” Again, he says, “I cannot adopt any middle path; my soul is in danger if I do. I must tread the step I have trod invariably. To yield an atom to her vile stories is to prove my own conviction.”

Here is no recovery :—“ he must tread the step he has trodden invariably :—to yield an atom to her vile stories is to prove his own conviction.”

It is observable, that one of his prevailing fancies throughout, and especially latterly, was, that the loss of his business and his friends had been occasioned by the artifices of his daughter, in deluding people into a belief, that she was virtuous and good, and that he was treating her improperly.

I have at length arrived at the will itself, and the evidence upon the *condidit*; and, as I stated at the outset, taking that evidence by itself, and unconnected with the previous history, the making of the will had every appearance of being the act of a sane testator; but, looking at the other circumstances, the witnesses on the *condidit*, in order to support the will, must prove something more: they must prove the absence of insanity at the time of making this will. The rule laid down by Swinburne here applies and *à fortiori* :—“ If in the testament there



be a mixture of wisdom and folly, it is to be presumed, that the same was made during the testator's frenzy; insomuch that if there be but one word sounding to folly, it is presumed that the testator was not of sound mind and memory when he made the same." (a)

The question, then, is not—whether parts of the will are rational; but—whether any part shows delusion at that time existing, even taking the question on that less favourable ground. The will itself, in this case, emanating certainly from the deceased's own mind, affords proof of the presence of disorder instead of its absence: the paragraphs recited show it to be grounded on perverted notions: the original delusion induces him to cut off his daughter, and to give these legacies to Iley and Goff; or rather to cut off Goff also, on the suspicion that "he had been closeted with his daughter at Wilson's, and had begun to take part with her," as he expressed it in the exhibit to which I have adverted.

In Mr. Bramley's account, there are some rather unusual fancies in the mode of preparation. Now, without enlarging on those fancies, it is clear that Mr. Bramley, very prudently, and, perhaps, very properly, did not probe the mind of the deceased, and said nothing which would excite him to any very violent or decided marks of his derangement. He says:—

"He can very positively depose, that the words contained in the two sentences (b) were copied verbatim from the paper in the deceased's hand-writing: he remembers having expressed an objection to the

(a) Swinburne on Wills, part ii. sect. 3. p. 125. 7th edition.

(b) Vide p. 19. ante.

introduction of them into the will, and that the deceased would not withdraw them, or consent to their being either omitted or altered; and the deponent, therefore, marked them by inverted commas, to show that the words were not his — but the deceased's. The deponent remembers that having then understood from various sources, as he believes, that there was a disagreement between the deceased and his daughter, and knowing him to be a man of peculiar temper, the deponent avoided all needless communications on the subject of his daughter as much as he could, being determined simply to receive and obey the instructions of the deceased relative to her, and, in fact, very little was said upon that subject.” —“ In the preparation of the will by Mr. Ottley, the two bequests, in which the expressions relative to the deceased's daughter occurred, were transposed, and the words ‘the same good’ were without meaning; he drew the deceased's attention to it, and to the best of his recollection and belief, the deceased said, ‘that the words must remain as they were,’ or to that effect.” Here, then, are these clauses introduced, not by copying them accidentally from a former instrument — not by any misapprehension of the drawer — but, expressly, by the deceased himself: though objected to by Mr. Bramley, he will not consent to their being omitted; though, by their transposition, the words became, in some degree, nonsense, yet the deceased said, “the words must remain as they were.” As far, then, as these passages sound to folly — as far as they are connected with the deceased's delusion — they are the emanations of the deceased's own disordered mind at the time of making this will; and this is the

precise point of time at which the Court is to decide—whether the testator was of sound mind.

The deceased lived for three years after, but died a confirmed lunatic. His paralytic attack did not reduce him to a state of imbecility and fatuity; for during his last illness Mr. Wilson visits him, and there is the continuance of the very same delusion respecting his daughter, and his violence against Mr. Wilson for having taken her part. —Mr. Wilson deposes: “During the deceased’s last illness, the deponent called, and was introduced by Mr. Fletcher and Mr. Rawlings, two friends of the deceased: the moment he saw the deponent, the deceased burst out in a violent exclamation that the devil had sent him, and that the deponent was the greatest enemy the deceased ever had. The deponent endeavoured to say a few conciliatory words, but the deceased would not listen to him; and if he did not actually make the attempt, he certainly showed the inclination to fall on the deponent, who was therefore obliged to retire. The deceased said something very violent about his daughter, and charged the deponent with having encouraged her unnaturalness and rebellion.” Here, then, when the deceased is actually insane — during his last illness — after the paralytic attack, are exactly the same feelings respecting his daughter which marked the previous delusion. This, therefore, connects the final insanity with the original delusion, and makes it reflect back (if that were at all necessary) some strong light upon the former character of his mental disorder.

These are the principal parts of the evidence on which the Judge in this Court is bound carefully, and without bias or compassion, to form his decision.

I say the principal parts, for there are a variety of other particulars, which, whether or not alone, and taken separately, they might be sufficient to prove the deceased insane; yet, taken with the main facts, tend considerably to strengthen the conclusion which the Court is disposed to draw. Some of these particulars have already been noticed in the course of stating the evidence: I will mention some others:—his fancies respecting electricity, that it would not only cure all disorders but might be made the means of delivering women in childbirth; and so desirous was he to try the experiment, that he offered to make a man his baker if he would suffer him to deliver his wife by electricity: they told him he was mad for it:—giving such violent electrical shocks to his patients that a very considerable diminution of his practice was the consequence. The Bishop of Durham mentions, I think, an instance of this kind:—fancying that he had the right to stop drovers from bringing their cattle down his street; and insisting that they should go another way, and thus getting into perpetual quarrels with them:—dragging draymen from the shafts, declaring that he was a magistrate, so that frequently he was obliged to run away in order to escape from their vengeance:—endeavouring to prevent children from playing before his house, by coming out in his dressing-gown with a horsewhip to flog them, which conduct, of course, only afforded them amusement, and induced them to tease him the more, and to hollow after him “Mad Stott:”—professing himself very religious, though he was a profane swearer, and not very often at church; nay, professing to give family instruction by expounding the Scriptures, yet, occa-

sionally, not only swearing at the time, but reading books to his family impugning either the authenticity or doctrines of the Bible:—not only praying *extempore*, but taking for his subject the reformation of his servants, and the correction of some of their trivial faults;—frequently requiring his servants to pray themselves:—sometimes being in a state of excitement,—at others in a state of great despondency, pacing his room for hours together.—These, and some other circumstances added together, are strong confirmatory indications of derangement, though they might pass for mere eccentricity of character, if standing alone and separate from the main delusions.

The main delusions, certainly, are those respecting his daughter and respecting himself;—so that though his daughter, from her earliest infancy to the end of her history in this cause, is proved to be amiable in disposition, of superior natural talents, engaging in her manners, diligent, industrious, submissive and obedient, patient under affliction, dutiful and affectionate, modest and virtuous, moral and religious, yet in the deluded mind of the deceased she is the most extraordinary instance of depravity, of vileness, of vice, of crime, of profligacy, of hypocrisy, of artifice, of disobedience, of revolt, and rebellion against paternal authority, and is quite irreclaimable;—while, in regard to himself, he is a pattern of fatherly tenderness and affection, though tying his daughter to a bed-post, and flogging her with the most unmerciful severity, and aggravating her sufferings by the application of brine; flogging her repeatedly with a horsewhip; pulling her hair out by the roots; compelling her to perform the

most menial drudgery, and of the severest sort — to which even a servant would not submit. All these things are represented by himself as proofs of his great tenderness and regard. These impressions accompany him through life, and are recorded in this will.

To remove these delusions, no reasoning, no argument, no interposition of friends, no pastoral authority, is of any avail; even the sanctions of religion cannot convince him that his ideas are erroneous, nor induce him to alter his conduct: he held himself perfect and faultless, — “pure as the Deity.”

What might be the condition of the deceased as applied to other transactions, civil or criminal, it is not my duty to consider.

My only duty is, conscientiously, to decide this case upon my own moral conviction, founded on the evidence that respects this will, carefully guarding myself, as far as I am able, from being misled by feelings of compassion; and my full conviction is — that the deceased, when he made this will, was not a person of sound mind; or, in my Lord Coke’s language, was “*non compos mentis.*” I, therefore, pronounce against the validity of this will.

THE END.



ERRATA.

Page 2. line 31. *for* executors *read* nephews.

—48. — 17. *for* is *read* are.

